

Introduced by Senator Campbell

February 22, 2005

An act to amend Section 110, 271, 541, 542, 543, 544, 545, 546, 547, 1500, 1502, 1503, 1504, 1700, 1755, 1756, 1761, 1762, 1782, 1785, 1900, 1913.5, 3392.5, 3800, 3802, 3803, 3804, 3827, 3840, 3841, 3842, 3843, 3844, 3845, 3860, 3862, 3863, 3864, 3865, 3866, 3867, 3868, 3869, 3870, 4840, 4858, 4888, 4928, and 4949 of, to amend the headings of Chapter 4 (commencing with Section 490), Article 3 (commencing with Section 540) of Chapter 4, and Article 3 (commencing with Section 3840) and Article 4 (commencing with Section 3860) of Chapter 22, of Division 1 of, to add Sections 108, 126.3, 134.3, 139.1, 140.4, 1501.3, 1501.7, 1764, 1932, 1933, 3807, 3808, 3809, 3810, 3811, 3821.5, 3872, 3873, 3874, 3875, 3876, 3877, 4876.06.5, 4878.05.5, and 4908.07.5 to, to add Article 5 (commencing with Section 3880) to Chapter 22 of Division 1 of, to repeal Sections 540 and 3861 of, and to repeal and add Section 4879.13 of, the Financial Code, relating to financial institutions.

LEGISLATIVE COUNSEL'S DIGEST

SB 1019, as introduced, Campbell. Financial institutions.

Existing law provides for the regulation of banks, including certain foreign banks, and trust companies by the Commissioner of Financial Institutions.

This bill would revise and recast these provisions, particularly with respect to the authority and obligations of various types of foreign banks within the state, including but not limited to their authority to maintain offices and facilities and to conduct trust business. The bill would require certain independent trust companies to file a report with the commissioner by January 31, 2006, and would require the commissioner to issue a certificate of authority to those trust

companies and to certain state commercial banks conducting a trust business, as specified. The bill would also enact various provisions regulating uninsured foreign (other state) state banks licensed to maintain a California facility, including requiring the banks to conduct all business of the office in a single building or in adjoining buildings and imposing fees with respect to their facilities, as specified. The bill would require the registration of certain unlicensed and uninsured foreign (other state) state banks that are authorized under the law of their domicile to transact trust business. The bill would also make related technical changes.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 108 is added to the Financial Code, to
2 read:

3 108. “Independent trust company” means any trust company
4 other than a commercial bank that is authorized to engage in trust
5 business.

6 SEC. 2. Section 110 of the Financial Code is amended to
7 read:

8 110. “Office” includes head office, branch office, *facility*, and
9 any other authorized place of business of a bank.

10 “Head office” means the principal place of business of a bank.

11 SEC. 3. Section 126.3 is added to the Financial Code, to read:

12 126.3. Except as otherwise provided in Section 1700, “branch
13 office” or “branch,” when used with respect to a bank, means a
14 place, other than the bank’s head office, at which the bank
15 engages in, or is authorized to engage in, core banking business.

16 SEC. 4. Section 134.3 is added to the Financial Code, to read:

17 134.3. “Core banking business” includes the business of
18 receiving deposits, paying checks, and making loans, except as
19 the commissioner may otherwise provide by order or regulation.
20 “Core banking business” also includes any other activities that
21 the commissioner may specify by order or regulation. “Core
22 banking business” does not include any trust business or any
23 other activities that the commissioner may specify by order or
24 regulation.

25 SEC. 5. Section 139.1 is added to the Financial Code, to read:

139.1. “Facility,” when used with respect to a bank, means a place, other than the bank’s head office or a branch office, at which the bank engages in, or is authorized to engage in, noncore banking business and at which it neither is authorized to engage in, nor engages in, core banking business.

SEC. 6. Section 140.4 is added to the Financial Code, to read:

140.4. “Noncore banking business” means all activities permissible for a commercial bank or independent trust company, as the case may be, except core banking business and any activities that are prohibited by law or determined by the commissioner by regulation or order not to be noncore banking business.

SEC. 7. Section 271 of the Financial Code is amended to read:

271. The commissioner shall annually collect from national banking associations and foreign (other state) banks ~~operating trust departments~~ *transacting trust business* in this state an annual assessment to meet expenses of the department, not exceeding one one-hundredth of 1 percent of the amount required by law to be deposited with the Treasurer as surety for the faithful performance and execution of all court and private trusts accepted by them.

SEC. 8. The heading of Chapter 4 (commencing with Section 490) of Division 1 of the Financial Code is amended to read:

CHAPTER 4. BRANCH OFFICES, ~~OTHER PLACES OF BUSINESS~~
FACILITIES, AND AUTOMATED TELLER MACHINES

SEC. 9. The heading of Article 3 (commencing with Section 540) of Chapter 4 of Division 1 of the Financial Code is amended to read:

Article 3. ~~Other Places of Business~~ *Facilities*

SEC. 10. Section 540 of the Financial Code is repealed.

~~540. As used in this article, “place of business” means any place of business of a bank other than a head office, a branch office, or a place of business consented to by the commissioner pursuant to Section 776 of this code.~~

1 SEC. 11. Section 541 of the Financial Code is amended to
2 read:

3 541. No bank shall establish or maintain a ~~place of business~~
4 *facility* unless it is authorized to do so by the commissioner.

5 SEC. 12. Section 542 of the Financial Code is amended to
6 read:

7 542. An application for authority to establish and maintain a
8 ~~place of business facility~~ shall be in ~~such~~ *the* form and contain
9 ~~such the~~ information ~~as that~~ the commissioner may prescribe,
10 and shall be accompanied by a fee of two hundred fifty dollars
11 (\$250).

12 SEC. 13. Section 543 of the Financial Code is amended to
13 read:

14 543. The commissioner may give or withhold approval of an
15 application in his or her discretion, but he or she shall not
16 approve the application until he or she has ascertained to his or
17 her satisfaction that the public convenience and advantage will be
18 promoted by the proposed ~~place of business facility~~.

19 SEC. 14. Section 544 of the Financial Code is amended to
20 read:

21 544. When the commissioner has approved an application, the
22 commissioner shall issue a certificate in duplicate authorizing the
23 bank to establish and maintain the ~~place of business facility~~. The
24 certificate shall specify the conditions, if any, under which the
25 ~~place of business facility~~ may be established and maintained and
26 the place where it will be located. The commissioner shall place
27 one copy of the certificate on file with the department. The
28 commissioner shall transmit one copy of the certificate to the
29 applicant bank.

30 SEC. 15. Section 545 of the Financial Code is amended to
31 read:

32 545. The approval of an application to establish and maintain
33 a ~~place of business facility~~ shall be revoked by operation of law if
34 the applicant bank does not establish and maintain ~~such place of~~
35 ~~business~~ *the facility* within one year after the date of ~~such the~~
36 approval. However, for good cause on written application made
37 before ~~such that~~ approval is revoked and accompanied by a fee of
38 one hundred dollars (\$100), the commissioner may extend for
39 additional periods not in excess of one year each the time within

1 which ~~such place of business~~ *the facility* may be established and
2 maintained.

3 SEC. 16. Section 546 of the Financial Code is amended to
4 read:

5 546. With the prior written approval of the commissioner, a
6 bank may change the location of a ~~place of business~~ *facility* from
7 one location to another in the same vicinity. An application for
8 ~~such~~ *that* approval shall be accompanied by a fee of one hundred
9 dollars (\$100).

10 SEC. 17. Section 547 of the Financial Code is amended to
11 read:

12 547. (a) A bank may close or discontinue the operation of a
13 ~~place of business~~ *facility* provided *that* it files a notice with the
14 commissioner, containing the information in subdivision (b), at
15 least 30 days prior to the closure or discontinuance, and ~~provided~~
16 ~~further that~~ the commissioner either (1) issues a written statement
17 not objecting to the notice or (2) does not issue a written
18 objection to the notice.

19 (b) A notice filed by a California state bank of the closure or
20 discontinuance of a ~~place of business~~ *facility* shall contain the
21 following information.

22 (1) The name of the California state bank.

23 (2) The name and location of the ~~place of business~~ *facility*
24 proposed to be closed or discontinued.

25 (3) The name and location of the ~~place of business~~ *facility* that
26 will assume the business of the branch office proposed to be
27 closed or discontinued.

28 (4) Any other information that the commissioner may require.

29 SEC. 18. Section 1500 of the Financial Code is amended to
30 read:

31 1500. ~~No~~ *Except as otherwise provided in Section 1502,*
32 *Chapter 13.5 (commencing with Section 1700), and Chapter 22*
33 *(commencing with Section 3800), no corporation shall engage in*
34 *the trust business unless all of the following are satisfied:*

35 (a) Its articles comply with the requirements of subdivision
36 (b), (d), or (e) of Section 600; ~~and~~.

37 (b) It has received from the commissioner a certificate of
38 authority pursuant to Section 401 to engage in the trust business,
39 or, if it is a bank, has received the authorization of the

1 commissioner to engage in the trust business pursuant to Section
2 1500.1; ~~and~~.

3 (c) It has deposited with the State Treasurer money or
4 securities in compliance with Article 3 (commencing with
5 Section 1540) ~~of this chapter~~.

6 SEC. 19. Section 1501.3 is added to the Financial Code, to
7 read:

8 1501.3. (a) Subject to subdivision (b), nothing in this division
9 prohibits a foreign (other state) state bank that is authorized
10 pursuant to the law of its domicile to transact trust business, from
11 marketing or soliciting in this state with respect to acting or
12 proposing to act as a trustee or in any other fiduciary capacity
13 outside this state.

14 (b) (1) With respect to an uninsured foreign (other state) state
15 bank, the commissioner may by order prohibit the bank from
16 marketing or soliciting in this state with respect to acting or
17 proposing to act as a fiduciary or in any other fiduciary capacity,
18 if the commissioner finds either of the following is true:

19 (A) The bank is not satisfactory.

20 (B) The regulation of the bank under the law of its domicile is
21 not satisfactory.

22 (2) (A) Within 30 days after an order is issued pursuant to
23 paragraph (1), the uninsured foreign (other state) state bank to
24 which the order is issued may file with the commissioner an
25 application for a hearing on the order. If the commissioner fails
26 to commence the hearing within 15 business days after the
27 application is filed with the commissioner or within any longer
28 period to which the bank consents, the orders shall be rescinded.
29 Within 30 days after the hearing, the commissioner shall affirm,
30 modify, or rescind the order; otherwise, the order shall be
31 deemed rescinded.

32 (B) The right of any uninsured foreign (other state) state bank
33 to which an order is issued under paragraph (1) to petition for
34 judicial review of the order shall not be affected by the failure of
35 the bank to apply to the commissioner for a hearing on the order
36 pursuant to subparagraph (A).

37 (3) If any uninsured foreign (other state) state bank markets or
38 solicits in this state with respect to acting or proposing to act as a
39 trustee or in any other fiduciary capacity, the bank shall, by that
40 activity, be deemed to have appointed the commissioner and the

1 commissioner's successors from time to time in office as its
2 attorney to receive service of any lawful process in any
3 administrative proceeding under this subdivision or any judicial
4 proceeding relating to any order issued under this subdivision.

5 SEC. 20. Section 1501.7 is added to the Financial Code, to
6 read:

7 1501.7. Nothing in this division prohibits an insured foreign
8 (other state) state bank that is authorized pursuant to the law of
9 its domicile to transact trust business from doing any of the
10 following in this state:

11 (a) Receiving or delivering money or other intangible assets as
12 trustee or in any other fiduciary capacity.

13 (b) Marketing or soliciting with respect to any of the activities
14 described in subdivision (a).

15 (c) Marketing or soliciting with respect to acting or proposing
16 to act as trustee or in any other fiduciary capacity outside this
17 state.

18 SEC. 21. Section 1502 of the Financial Code is amended to
19 read:

20 1502. ~~In this section, "subject~~ (a) *The following definitions*
21 *apply for the purposes of this section:*

22 (1) *"Subject bank" means a subject foreign (other nation)*
23 *bank or a subject national banking association.*

24 (2) *"Subject foreign (other nation) bank" means a foreign*
25 *(other nation) bank that maintains a federal branch, as described*
26 *in subdivision (i) of Section 1700, and that is authorized under*
27 *federal law to transact a trust business in this state.*

28 (3) *"Subject national banking association" means a national*
29 *banking association that* ~~(a) maintains its main office or a branch~~
30 ~~office in this state, (b) (A) is authorized under federal law to~~
31 ~~transact a trust business, and (c) in this state and (B) has~~
32 ~~complied with the requirements of Article 3 (commencing with~~
33 ~~Section 1540) of this chapter and of all other laws of this state~~
34 ~~relating to the deposit of securities for the protection of court and~~
35 ~~private trusts. A~~

36 ~~(b) A subject national banking association bank~~ may engage in
37 and conduct a trust business and may be appointed by any court
38 to act in any fiduciary capacity in which a trust company is
39 authorized to act. All acts provided in this code to be performed
40 by the commissioner, the State Treasurer, or other public officials

1 for or in respect to the deposit of securities by trust companies,
2 shall be performed for subject national ~~banking associations~~
3 ~~banks~~ equally with trust companies. Every subject national
4 ~~banking association~~ bank shall be permitted to use the word
5 “trust” in its corporate name and to advertise its authority to
6 engage in and conduct a trust business and to advertise for and
7 solicit trust business in this state, notwithstanding any contrary
8 provision in this division or in any other law. ~~The~~

9 (c) *The* commissioner shall have access to reports of
10 examination made by the Comptroller of the Currency insofar as
11 they relate to the trust department of a subject national ~~banking~~
12 ~~association~~ bank. ~~For~~

13 (d) *For* purposes of Article 3 (commencing with Section
14 1540), ~~the~~:

15 (1) *In the case of a subject national banking association:*

16 (A) *The principal place of business of a subject national*
17 *banking association that maintains its main office in another state*
18 *of the United States and maintains a California branch office*
19 *shall be deemed to be situated in the city where the California*
20 *branch office is located or, if the national banking association*
21 *maintains California branch offices in two or more cities, in the*
22 *city with the largest population.*

23 (B) *The principal place of business of a subject national*
24 *banking association that maintains its main office in another*
25 *state of the United States and maintains a California facility but*
26 *no California branch office, shall be deemed to be situated in the*
27 *city where the California facility is located or, if the national*
28 *banking association maintains California facilities in two or*
29 *more cities, in the city with the largest population.*

30 (C) *The principal place of business of a subject national*
31 *banking association that maintains its main office in another*
32 *state of the United States and maintains no California branch*
33 *office or California facility, shall be deemed to be situated in the*
34 *city of this state with the largest population.*

35 (2) *In the case of a subject foreign (other nation) bank:*

36 (A) *The principal place of business of a subject foreign (other*
37 *nation) bank that maintains a federal branch in this state, shall*
38 *be deemed to be situated in the city in which the federal branch is*
39 *located or, if the subject foreign (other nation) bank maintains*

1 *federal branches in two or more cities in this state, in the city*
2 *with the largest population.*

3 *(B) The principal place of business of a subject foreign (other*
4 *nation) bank that maintains no federal branch in this state, shall*
5 *be deemed to be situated in the city in this state with the largest*
6 *population.*

7 SEC. 22. Section 1503 of the Financial Code is amended to
8 read:

9 1503. No foreign corporation, other than a national banking
10 association ~~or a~~, foreign (other state) state bank, *or a foreign*
11 *(other nation) bank*, that is authorized to conduct a trust business
12 in this state, shall have or exercise the powers of a trust company
13 nor directly or indirectly transact or conduct in this state a trust
14 business as defined in Section 106. However, a foreign
15 corporation that is authorized by its articles to exercise trust
16 powers may act as trustee for the following purposes:

17 (a) To deliver bonds and receive payments therefor.

18 (b) To deliver permanent bonds in exchange for temporary
19 bonds of the same issue.

20 (c) To deliver refunding bonds in exchange for those of a prior
21 issue or issues.

22 (d) To register bonds or to exchange registered bonds for
23 coupon bonds or coupon bonds for registered bonds.

24 (e) To pay interest on the bonds, and take up and cancel
25 coupons representing the interest payment.

26 (f) To redeem and cancel bonds when called for redemption or
27 to pay and cancel bonds when due.

28 (g) To certify registered bonds for the purpose of exchanging
29 registered bonds for coupon bonds.

30 A foreign corporation that is authorized by its articles to
31 exercise trust powers may be appointed and may accept
32 appointment and act as trustee under any mortgage, deed of trust,
33 or other instrument securing bonds or other obligations issued or
34 to be issued by any railroad corporation that owns a railroad
35 operating in the State of California and extending into another
36 state.

37 A foreign corporation exercising in this state the powers
38 conferred by this section shall not establish or maintain directly
39 or indirectly any branch office ~~or~~, agency, *or facility* in this state
40 unless it has complied with all of the applicable provisions of

1 Chapter 13.5 (commencing with Section 1700) or of Chapter 22
2 (commencing with Section 3800).

3 SEC. 23. Section 1504 of the Financial Code is amended to
4 read:

5 1504. Pursuant to the authority contained in Section 1 of
6 Article XV of the California Constitution, the restrictions upon
7 rates of interest contained in Section 1 of Article XV of the
8 California Constitution shall not apply to any obligations of,
9 loans made or arranged by, or forbearances of, any of the
10 following that is authorized to engage in the trust business *in this*
11 *state*, when acting in its fiduciary capacity:

12 (a) Any California state bank.

13 (b) Any national bank ~~that maintains its main office or a~~
14 ~~branch office in this state.~~

15 (c) Any foreign (other state) state bank that maintains a branch
16 office *or facility* in this state.

17 (d) *Any foreign (other nation) bank that is licensed under*
18 *Chapter 13.5 (commencing with Section 1700) to maintain a*
19 *branch office, as defined in subdivision (c) of Section 1700.*

20 (e) *Any foreign (other nation) bank that maintains a federal*
21 *branch, as defined in subdivision (i) of Section 1700.*

22 This section creates and authorizes an exempt class of persons
23 pursuant to Section 1 of Article XV of the Constitution.

24 This section does not exempt a bank authorized to transact a
25 trust business or a subsidiary thereof from complying with all
26 other laws and regulations governing the business in which the
27 bank or subsidiary is engaged.

28 SEC. 24. Section 1700 of the Financial Code is amended to
29 read:

30 1700. In this chapter, unless the context otherwise requires:

31 (a) ~~“Agency”~~ “Accountholder” includes:

32 (1) *In the case of a deposit account, each depositor.*

33 (2) *In the case of a trust account, each trustor and beneficiary*
34 *of the trust account.*

35 (3) *In the case of any other fiduciary account, each person*
36 *who occupies, with respect to the account, a position that is*
37 *similar to the position that a trustor or beneficiary occupies with*
38 *respect to a trust account.*

39 (b) “Agency” means a depository agency or a nondepository
40 agency.

~~(b)~~

(c) “Branch office” means a limited branch office, a retail branch office, or a wholesale branch office.

~~(e)~~

(d) “Business in this state,” when used with respect to a foreign (other nation) bank which is licensed to maintain one or more agencies or branch offices, includes ~~(without limitation)~~, *without limitation*, the aggregate business of all the offices.

~~(d)~~

(e) “Controlling person,” when used with respect to a foreign (other nation) bank, means any person who, directly or indirectly, controls the bank. For purposes of this subdivision, “control” has the meaning set forth in subdivision (b) of Section 700, and “person” has the meaning set forth in subdivision (d) of Section 700.

~~(e)~~

(f) “Depository agency,” when used with respect to a foreign (other nation) bank, means a place in this state at which the bank transacts commercial banking business but at which it does not transact the business of receiving deposits, except as permitted under paragraph (2) of subdivision (a) of Section 1755.

~~(f)~~

(g) “Executive officer,” when used with respect to a foreign (other nation) bank or a controlling person of a foreign (other nation) bank, means the chief executive officer, the chief operating officer, the chief financial officer, and any other person who participates or has authority to participate in major policy-making functions of the bank or controlling person. “Executive officer,” when used with respect to a foreign (other nation) bank, includes the head of the international division ~~(or, or, if there is no such division, the closest equivalent division or unit) unit~~, of ~~such~~ the bank.

~~(g)~~

(h) “Federal agency” has the meaning set forth in Section 1(b) of the International Banking Act of 1978.

~~(h)~~

(i) “Federal branch” has the meaning set forth in Section 1(b) of the International Banking Act of 1978.

~~(i)~~

1 (j) (1) “License” means a license issued under this chapter,
2 authorizing a foreign bank to maintain an office.

3 (2) To be “licensed” means to be issued or to hold a license.

4 (3) To be “licensed to transact business in this state,” when
5 used with respect to a foreign (other nation) bank, means that the
6 bank is licensed to maintain an agency or branch office.

7 ~~(j)~~

8 (k) “Limited branch office,” when used with respect to a
9 foreign (other nation) bank, means a place in this state at which
10 the bank transacts commercial banking business but at which it
11 does not transact the business of receiving deposits except as
12 permitted under paragraph (3) of subdivision (a) of Section 1755.

13 ~~(k)~~

14 (l) “Nondepository agency,” when used with respect to a
15 foreign (other nation) bank, means a place in this state at which
16 the bank transacts commercial banking business, except the
17 business of receiving deposits.

18 ~~(l)~~

19 (m) “Office,” when used with respect to a foreign (other
20 nation) bank, means any agency, branch office, or representative
21 office of the bank.

22 ~~(m)~~

23 (n) “Primary office,” when used with respect to a foreign
24 (other nation) bank that is licensed to maintain a single agency or
25 branch office, means the agency or branch office and, when used
26 with respect to a foreign (other nation) bank that is licensed to
27 maintain two or more agencies or branch offices, means that one
28 of the offices which the bank has designated as its primary office
29 in accordance with Section 1714.

30 ~~(n)~~

31 (o) “Representative office,” when used with respect to a
32 foreign (other nation) bank, means an office in this state at which
33 the bank engages in representational functions but at which it
34 does not transact commercial banking business.

35 ~~(o)~~

36 (p) “Retail branch office,” when used with respect to a foreign
37 (other nation) bank, means a place in this state at which the bank
38 transacts commercial banking business, including—~~(without~~
39 ~~limitation)~~, *without limitation*, the business of receiving deposits.

40 ~~(p)~~

1 (q) “Wholesale branch office,” when used with respect to a
2 foreign (other nation) bank, means a place in this state at which
3 the bank transacts commercial banking business but at which it
4 does not transact the business of receiving deposits except as
5 permitted under paragraph (4) of subdivision (a) of Section 1755.

6 SEC. 25. Section 1755 of the Financial Code is amended to
7 read:

8 1755. (a) A foreign (other nation) bank that is licensed to
9 maintain an agency or branch office may transact commercial
10 banking business at the office, subject to the following:

11 (1) In case the office is a nondepository agency, the bank shall
12 not transact the business of accepting deposits.

13 (2) In case the office is a depository agency, the bank shall not
14 transact the business of accepting any deposits other than
15 deposits of (A) a foreign nation, (B) an agency or instrumentality
16 of a foreign nation, or (C) a person which resides, is domiciled,
17 and maintains its principal place of business in a foreign nation.
18 For purposes of this paragraph, “person” means any individual,
19 proprietorship, joint venture, partnership, trust, business trust,
20 syndicate, association, joint stock company, corporation, limited
21 liability company, or any other organization or any branch or
22 division thereof.

23 (3) In case the office is a limited branch office, the bank shall
24 not transact the business of accepting any deposits other than (A)
25 deposits of the kind described in paragraph (2), or (B) deposits
26 that a corporation organized under Section 25A of the Federal
27 Reserve Act is permitted to accept.

28 (4) In case the office is a wholesale branch office, the bank
29 shall not transact the business of accepting any deposits other
30 than (A) deposits of the kind described in paragraph (2), (B)
31 deposits of one hundred thousand dollars (\$100,000) or more, or
32 (C) deposits the acceptance of which the commissioner
33 determines by regulation or order do not constitute engaging in
34 domestic retail deposit activities requiring deposit insurance
35 protection.

36 (5) In case the office is an agency, limited branch office, or
37 wholesale branch office, the bank may, subject to any regulations
38 that the commissioner may prescribe, maintain credit balances.

39 (6) In any case, the bank shall not transact any business that it
40 is not authorized to transact or is prohibited from transacting

1 under the law of its domicile or that *California state* commercial
2 banks ~~organized under the laws of this state~~ are not authorized to
3 transact or are prohibited from transacting.

4 (b) (1) No foreign (other nation) bank that is licensed to
5 maintain an agency ~~or branch office~~ shall transact any trust
6 business at the office except as permitted under Section 1503.

7 (2) *A foreign (other nation) bank that is licensed to maintain a*
8 *branch office and that is authorized under the law of its domicile*
9 *to transact trust business may transact trust business at the office*
10 *and may be appointed by any court to act in any fiduciary*
11 *capacity in which a California state trust company is authorized*
12 *to act. However, the bank shall not transact any business that it*
13 *is not authorized to transact or is prohibited from transacting*
14 *under the law of its domicile or that California state commercial*
15 *banks authorized to transact trust business are not authorized to*
16 *transact or are prohibited from transacting.*

17 SEC. 26. Section 1756 of the Financial Code is amended to
18 read:

19 1756. (a) In addition to other provisions of this division that
20 are otherwise applicable to or with respect to foreign (other
21 nation) banks licensed to maintain nondepository agencies, the
22 following provisions of this division shall apply to or with
23 respect to each foreign (other nation) bank licensed to maintain a
24 nondepository agency with respect to its business in this state as
25 if the bank were a *California state* commercial bank ~~organized~~
26 ~~under the laws of this state~~:

27 (1) Article 5 (commencing with Section 270) of Chapter 2.

28 (2) Chapter 13 (commencing with Section 1650).

29 (3) Article 3 (commencing with Section 1951) of Chapter 15.

30 (4) ~~Articles~~ Article 3 (commencing with Section 3160), *Article*
31 *4* (commencing with Section 3180), and *Article 7* (commencing
32 with Section 3240) of Chapter 17.

33 (5) Article 1 (commencing with Section 3350) of Chapter 18.

34 (6) Chapter 20 (commencing with Section 3600).

35 (7) Chapter 22 (commencing with Section 3800).

36 (b) In addition to other provisions of this division which are
37 otherwise applicable to or with respect to foreign (other nation)
38 banks licensed to maintain depository agencies or branch offices,
39 the following provisions of this division shall apply to or with
40 respect to each foreign (other nation) bank licensed to maintain a

1 depository agency or branch office with respect to its business in
2 this state as if the bank were a *California state* commercial bank
3 ~~organized under the laws of this state:~~

- 4 (1) Article 5 (commencing with Section 270) of Chapter 2.
- 5 (2) Chapter 6 (commencing with Section 750).
- 6 (3) Chapter 7 (commencing with Section 850).
- 7 (4) Chapter 8 (commencing with Section 952).
- 8 (5) Chapter 10 (commencing with Section 1200).
- 9 (6) Chapter 13 (commencing with Section 1650).
- 10 (7) Article 3 (commencing with Section 1951) of Chapter 15.
- 11 (8) Article 3 (commencing with Section 3160), Article 4
12 (commencing with Section 3180), and Article 7 (commencing
13 with Section 3240) of Chapter 17.
- 14 (9) Article 1 (commencing with Section 3350) of Chapter 18.
- 15 (10) Section 3513 and ~~Articles~~ Article 2 (commencing with
16 Section 3560), Article 3 (commencing with Section 3570), and
17 Article 4 (commencing with Section 3580) of Chapter 19.
- 18 (11) Chapter 20 (commencing with Section 3600).
- 19 (12) Chapter 22 (commencing with Section 3800).

20 (c) ~~Whenever~~ *In the case of a foreign (other nation) bank that*
21 *is licensed to maintain a branch office and that transacts trust*
22 *business at the office, in addition to other provisions of this*
23 *division that are otherwise applicable to, or with respect to, the*
24 *bank, the following provisions of Chapter 12 (commencing with*
25 *Section 1500) shall apply to or with respect to the bank as if the*
26 *bank were a California state commercial bank authorized to*
27 *transact trust business:*

- 28 (1) Article 3 (commencing with Section 1540).
- 29 (2) Article 4 (commencing with Section 1560), except Section
30 1560.
- 31 (3) Article 5 (commencing with Section 1580), except Sections
32 1583, 1584, 1585, and 1588.

33 (d) *Whenever* any provision of this chapter or of any
34 regulation or order issued under this chapter that is applicable to
35 or with respect to foreign (other nation) banks licensed to
36 transact business in this state is inconsistent with any provision
37 of any other chapter of this division that is applicable to or with
38 respect to foreign (other nation) banks licensed to transact
39 business in this state, the former provision shall apply, and the
40 latter provision shall not apply.

1 ~~(d)~~—

2 (e) (1) Whenever any provision of this division (other than the
3 provisions of this chapter) is applicable to or with respect to
4 foreign (other nation) banks licensed to transact business in this
5 state, the provision shall be applied with any changes in points of
6 detail as may be necessary or appropriate.

7 (2) Without limiting the provisions of paragraph (1), for
8 purposes of any provision of this division (other than the
9 provisions of this chapter) that is applicable to or with respect to
10 a foreign (other nation) bank licensed to transact business in this
11 state:

12 (A) “Approved by (or approval of) the board” means approved
13 or ratified by the board of the bank, by a committee of the board
14 authorized to exercise the powers of the board with respect to the
15 particular matter, or by an officer of the bank who is assigned to
16 the head office of the bank and who has authority over the bank’s
17 business in this state, including authority to approve or ratify the
18 particular matter.

19 (B) “Head office” or “*principal place of business*” means the
20 primary office of the bank.

21 (C) “Shareholders’ equity” means the shareholders’ equity of
22 the bank or, if the bank has no shareholders’ equity, the closest
23 equivalent account or accounts.

24 ~~(e)~~—

25 (f) Whenever any provision of this division (other than the
26 provisions of this chapter) that is applicable to or with respect to
27 a foreign (other nation) bank licensed to transact business in this
28 state limits the amount of any assets or liabilities of the bank
29 (including, by way of example, the amount of borrowings of,
30 obligations to, or investments of the bank), for purposes of
31 calculating the amount of the assets or liabilities, only the assets
32 or liabilities of the agencies or branch offices of the bank shall be
33 included, and the assets and liabilities of offices of the bank
34 outside this state shall be excluded.

35 SEC. 27. Section 1761 of the Financial Code is amended to
36 read:

37 1761. (a) In this section:

38 (1) “Adjusted liabilities,” when used with respect to a foreign
39 (other nation) bank, means the liabilities of ~~such~~ the bank’s
40 business in this state, excluding (A) accrued expenses, (B) any

liability to an office (whether in or outside of this state) or majority-owned subsidiary of the bank, and (C) ~~such any other liabilities as~~ *that* the commissioner may by regulation or order exclude.

(2) “Applicable minimum,” when used with respect to eligible assets deposited or to be deposited with an approved depository by a foreign (other nation) bank, means ~~such the amount as that~~ the commissioner may from time to time by regulation or order determine to be necessary for the maintenance of sound financial condition, for the protection of the interests of ~~creditors~~ *accountholders* of the bank’s business in this state, or for the protection of the public interest. However, in the case of a foreign (other nation) bank ~~which that~~ is licensed to maintain a branch office, the applicable minimum shall in no event be less than 5 percent of the adjusted liabilities of ~~such the~~ bank.

(3) “Approved depository,” when used with respect to a foreign (other nation) bank, means a ~~bank organized under the laws of this state or a national bank headquartered in this state~~ *California state bank or California national bank* which has been selected by ~~such the~~ foreign (other nation) bank and approved by the commissioner for the purpose of acting as the approved depository of the foreign (other nation) bank and which has filed with the commissioner, in ~~such form as the form that~~ the commissioner may by regulation or order prescribe, an agreement to comply with all applicable provisions of this section and of any regulation or order issued under this section.

(4) “Eligible assets” when used with respect to a foreign (other nation) bank, means any of the following:

(A) Cash.

(B) Any security of the type described in Section 1542.

(C) Any negotiable certificate of deposit which (i) has a maturity of not more than one year, (ii) is payable in the United States, and (iii) is issued by a bank organized under the laws of a state of the United States, by a national bank, or by a branch office of a foreign (other nation) bank which is located in the United States.

(D) Any commercial paper which is payable in the United States and which is rated P-1 or its equivalent by a nationally recognized rating service, ~~provided, however, that~~ . *However,*

1 any conflict in rating shall be resolved in favor of the lower
2 rating.

3 (E) Any banker's acceptance which is payable in the United
4 States and which is eligible for discount with a Federal Reserve
5 bank.

6 (F) Any other asset which the commissioner by regulation or
7 order determines to be eligible.

8 Notwithstanding the foregoing provisions of this paragraph,
9 "eligible asset," when used with respect to a foreign (other
10 nation) bank, does not include any instrument the issuer of which
11 (i) is, or is affiliated with, ~~such~~ the foreign (other nation) bank,
12 (ii) is domiciled in, or controlled by a bank or other person
13 domiciled in, the same foreign nation as the foreign (other
14 nation) bank, or (iii) is, or is controlled by, ~~such~~ that foreign
15 nation. For purposes of the foregoing provision, to be "affiliated"
16 means to control, to be controlled by, or to be under common
17 control with; and to "control" has the meaning set forth in
18 subdivision (b) of Section 700.

19 (b) For purposes of this section:

20 (1) The amount of adjusted liabilities of a foreign (other
21 nation) bank's business in this state shall be computed for ~~such~~
22 the period, in ~~such~~ the manner, and on ~~such~~ the basis ~~as that~~ the
23 commissioner may by regulation or order prescribe.

24 (2) Any eligible asset shall be valued at the lesser of market or
25 par.

26 (c) (1) Before any foreign (other nation) bank is licensed to
27 transact business in this state, ~~such~~ the bank shall deposit, and
28 each foreign (other nation) bank which is licensed to transact
29 business in this state shall maintain on deposit, with an approved
30 depository eligible assets having a value in an amount not less
31 than the applicable minimum.

32 (2) Whenever a foreign (other nation) bank which is licensed
33 to transact business in this state ceases to be so licensed, ~~such~~ the
34 bank shall thereafter maintain on deposit with an approved
35 depository eligible assets having a value in an amount not less
36 than the applicable minimum for ~~such~~ the period of time ~~as that~~
37 the commissioner may determine to be necessary for the
38 protection of ~~creditors~~ *accountholders* of the bank's business in
39 this state or for the protection of the public interest.

1 (d) (1) No foreign (other nation) bank ~~which~~ *that* maintains
2 eligible assets on deposit with an approved depository pursuant
3 to this section shall withdraw any ~~such of the~~ eligible assets
4 except with the prior approval of the commissioner.

5 (2) No approved depository which holds eligible assets on
6 deposit from a foreign (other nation) bank pursuant to this
7 section shall release any ~~such of the~~ eligible assets except with
8 the prior approval of the commissioner or as otherwise provided
9 in subdivision (h).

10 (e) Any foreign (other nation) bank which maintains eligible
11 assets on deposit with an approved depository pursuant to this
12 section shall, unless the commissioner shall have suspended or
13 revoked its license to transact business in this state or taken
14 possession of its property and business in this state, be entitled to
15 receive any income paid on ~~such the~~ eligible assets.

16 (f) (1) Whenever a foreign (other nation) bank deposits
17 eligible assets with, or withdraws eligible assets from, an
18 approved depository pursuant to this section, ~~such the~~ bank shall
19 do so in accordance with ~~such the~~ procedures and requirements
20 *as that* the commissioner may by regulation or order prescribe.

21 (2) Whenever an approved depository receives, holds, or
22 releases eligible assets pursuant to this section, ~~such the~~ approved
23 depository shall do so in accordance with ~~such the~~ procedures
24 and requirements *as that* the commissioner may by regulation or
25 order prescribe and shall file with the commissioner ~~such~~ reports
26 as and when the commissioner may by regulation or order
27 require.

28 (g) Whenever a foreign (other nation) bank maintains eligible
29 assets on deposit with an approved depository pursuant to this
30 section:

31 (1) The eligible assets shall be deemed to be pledged to the
32 commissioner for the benefit of the creditors of the bank's
33 business in this state; and, notwithstanding any provision of the
34 Uniform Commercial Code to the contrary, the commissioner,
35 for the benefit of ~~such those~~ creditors, shall be deemed to have a
36 security interest in ~~such the~~ eligible assets.

37 (2) The eligible assets shall be free from any lien, charge, right
38 of setoff, credit, or preference in connection with any claim of
39 the approved depository against the bank.

1 (h) (1) ~~In case~~ *If* the commissioner takes possession of the
2 property and business of a foreign (other nation) bank which
3 maintains eligible assets on deposit with an approved depository
4 pursuant to this section, ~~such the~~ approved depository shall, upon
5 order of the commissioner, release ~~such the~~ eligible assets to the
6 commissioner, as liquidator of the property and business of ~~such~~
7 ~~the~~ bank.

8 (2) ~~In case~~ *If* a foreign (other nation) bank which maintains
9 eligible assets on deposit with an approved depository pursuant
10 to this section fails to pay any judgment creditor of its business in
11 this state and the commissioner has not taken possession of the
12 property and business of ~~such the~~ bank, ~~such the~~ approved
13 depository shall release ~~such eligible assets~~ to the commissioner
14 ~~those eligible assets that~~, and the commissioner shall ~~make such~~
15 ~~disposition of the eligible assets, as~~ *dispose of the released*
16 *eligible assets in the manner that*, a court of competent
17 jurisdiction of this state or of the United States may order for the
18 benefit of ~~such the~~ judgment creditor. For purposes of this
19 paragraph, “judgment creditor of its business in this state” means
20 a person to whom the bank is required to pay money under a
21 judgment which (A) arose out of the bank’s business in this state,
22 (B) has been entered by a court of this state or of the United
23 States, (C) has become final, in that all possibility of direct attack
24 on ~~such the~~ judgment by way of appeal, motion for new trial,
25 motion to vacate, or petition for extraordinary writ has been
26 exhausted, and (D) has remained unpaid for a period of not less
27 than 60 days after becoming final.

28 SEC. 28. Section 1762 of the Financial Code is amended to
29 read:

30 1762. (a) In this section:

31 (1) “Adjusted liabilities,” when used with respect to a foreign
32 (other nation) bank ~~which that~~ is licensed to maintain a branch
33 office in this state, means the liabilities of ~~such that~~ bank’s
34 business in this state, excluding (A) accrued expenses, (B) any
35 liability to an office ~~(whether, whether~~ in or outside of this ~~state)~~
36 ~~state~~, or majority-owned subsidiary of the bank, and (C) ~~such any~~
37 other liabilities ~~as that~~ the commissioner may by regulation or
38 order exclude.

39 (2) “Eligible assets” means any asset which the commissioner
40 by regulation or order determines to be eligible for purposes of

1 this section. However, “eligible asset,” when used with respect to
2 a foreign (other nation) bank which is licensed to maintain a
3 branch office, includes (A) any asset ~~which such~~ *that the* bank
4 maintains on deposit pursuant to Section 1761 and (B) any
5 reserves ~~which that~~ the bank maintains with respect to its
6 business in this state in accordance with requirements prescribed
7 by the Board of Governors of the Federal Reserve System.

8 (b) For purposes of this section, the amount of eligible assets
9 and the amount of adjusted liabilities of a foreign (other nation)
10 bank which is licensed to maintain a branch office in this state
11 shall each be computed for ~~such the~~ period, in ~~such the~~ manner,
12 and on ~~such the~~ basis ~~as that~~ the commissioner may by regulation
13 or order prescribe.

14 (c) A foreign (other nation) bank licensed to maintain a branch
15 office in this state shall hold at its branch offices in this state or at
16 ~~such any other places as~~ *that* the commissioner may approve,
17 eligible assets in ~~such the~~ amount, if any, ~~as that~~ the
18 commissioner may from time to time by regulation or order
19 determine to be necessary for the maintenance of sound financial
20 condition, for the protection of the interests of ~~creditors~~
21 *accountholders* of the bank’s business in this state, or for the
22 protection of the public interest. However, in no event shall ~~such~~
23 *that* amount exceed 108 percent of the adjusted liabilities of the
24 bank’s business in this state.

25 (d) If the commissioner finds, with respect to a foreign (other
26 nation) bank licensed to maintain a branch office in this state,
27 that ~~such~~ action is necessary for the maintenance of sound
28 financial condition, for the protection of the interests of ~~creditors~~
29 ~~of such accountholders of the~~ bank’s business in this state, or for
30 the protection of the public interest, the commissioner may order
31 the bank to place all or part of the eligible assets ~~which that~~ the
32 bank is required to hold under subdivision (c) in the custody of
33 ~~such bank organized under the laws of this state or such national~~
34 ~~bank headquartered in this state as a California state bank or~~
35 *California national bank* that the commissioner may designate.

36 SEC. 29. Section 1764 is added to the Financial Code, to read:

37 1764. If a foreign (other nation) bank that is authorized
38 pursuant to the law of its domicile to transact trust business, that
39 is licensed to maintain one or more California branch offices, and
40 that has transacted trust business at the California branch offices,

1 ceases to transact trust business at the California branch offices
2 or ceases to maintain any California branch office, the bank shall
3 continue to be subject to Article 3 (commencing with Section
4 1540) of Chapter 12 for the period of time and to the extent that
5 the commissioner may determine to be necessary for the
6 protection of the interests of the accountholders of the bank's
7 trust business in this state or for the protection of the public
8 interest.

9 SEC. 30. Section 1782 of the Financial Code is amended to
10 read:

11 1782. (a) If the commissioner finds that any of the factors set
12 forth in Section 1781 is true with respect to any foreign (other
13 nation) bank that is licensed to maintain an office and that it is
14 necessary, in case the bank is licensed to transact business in this
15 state, for the protection of the interests of *accountholders or*
16 creditors of the bank's business in this state or, in any case, for
17 the protection of the public interest that the commissioner
18 immediately suspend or revoke the license of the bank, the
19 commissioner may issue an order suspending or revoking the
20 license of the bank.

21 (b) (1) Within 30 days after an order is issued pursuant to
22 subdivision (a), the foreign (other nation) bank to which the order
23 is issued may file with the commissioner an application for a
24 hearing on the order. If the commissioner fails to commence the
25 hearing within 15 business days after the application is filed with
26 the commissioner ~~(or, or within any longer period to which the~~
27 ~~bank consents)~~ *consents*, the order shall be deemed rescinded.
28 Within 30 days after the hearing, the commissioner shall affirm,
29 modify, or rescind the order; otherwise, the order shall be
30 deemed rescinded.

31 (2) The right of any foreign (other nation) bank to which an
32 order is issued under subdivision (a) to petition for judicial
33 review of the order shall not be affected by the failure of the bank
34 to apply to the commissioner for a hearing on the order pursuant
35 to paragraph (1).

36 SEC. 31. Section 1785 of the Financial Code is amended to
37 read:

38 1785. (a) If the commissioner finds that any of the factors set
39 forth in Section 1781 is true with respect to any foreign (other
40 nation) bank which is licensed to transact business in this state

1 and that it is necessary for the protection of the interests of the
2 *accountholders or* creditors of ~~such the~~ bank's business in this
3 state or for the protection of the public interest that he or she take
4 immediate possession of the property and business of the bank,
5 the commissioner may by order ~~forthwith~~ take possession of the
6 property and business of the bank and retain possession until the
7 bank resumes business in this state or is finally liquidated. The
8 bank may, with the consent of the commissioner, resume
9 business in this state upon ~~such~~ conditions ~~as that~~ the
10 commissioner may prescribe.

11 (b) (1) Whenever the commissioner takes possession of the
12 property and business of a foreign (other nation) bank pursuant to
13 subdivision (a), ~~such the~~ bank may, within 10 days, apply to the
14 superior court in the county in which the primary office of the
15 bank is located to enjoin further proceedings. The court may,
16 after citing the commissioner to show cause why further
17 proceedings should not be enjoined and after a hearing, dismiss
18 ~~such the~~ application or enjoin the commissioner from further
19 proceedings and order him or her to surrender the property and
20 business of the bank to the bank or make ~~such any~~ further order
21 ~~as that~~ may be just.

22 (2) The judgment of the court may be appealed by the
23 commissioner or by the bank in the manner provided by law for
24 appeals from the judgment of a superior court to the court of
25 appeal. ~~In case~~ If the commissioner appeals the judgment of the
26 court, ~~such the~~ appeal shall operate as a stay of the judgment, and
27 the commissioner shall not be required to post any bond.

28 (c) Whenever the commissioner takes possession of the
29 property and business of a foreign (other nation) bank pursuant to
30 subdivision (a), the commissioner shall conserve or liquidate the
31 property and business of ~~such the~~ bank pursuant to ~~Articles~~
32 *Article 1* (commencing with Section 3100), *Article 3*
33 (commencing with Section 3160), and *Article 6* (commencing
34 with Section 3220) of Chapter 17, and the provisions of ~~such~~
35 *those* articles (except Sections 3100, 3101, 3102, and 3126) shall
36 apply as if the bank were a ~~bank organized under the laws of this~~
37 *state California state bank*.

38 (d) When the commissioner has completed the liquidation of
39 the property and business of a foreign (other nation) bank, the
40 commissioner shall transfer any remaining assets to ~~such the~~

1 bank in accordance with ~~such~~ orders ~~as that~~ the court may issue.
2 However, in case the bank has an office in another state of the
3 United States which is in liquidation and the assets of ~~such that~~
4 office appear to be insufficient to pay in full the creditors of the
5 office, the court shall order the commissioner to transfer to the
6 liquidator of the office ~~such that~~ amount of any ~~such~~ remaining
7 assets ~~as that~~ appears to be necessary to cover ~~such the~~
8 insufficiency; if there are two or more ~~such~~ offices *of that type*
9 and the amount of remaining assets is less than the aggregate
10 amount of insufficiencies with respect to ~~the those~~ offices, the
11 court shall order the commissioner to distribute the remaining
12 assets among the liquidators of ~~such those~~ offices in ~~such any~~
13 manner ~~as that~~ the court finds equitable.

14 SEC. 32. Section 1900 of the Financial Code is amended to
15 read:

16 1900. (a) (1) For purposes of this subdivision, an
17 examination made by the commissioner in conjunction with or
18 with assistance from a bank regulatory agency of the United
19 States, of a state of the United States, or of a foreign nation is
20 deemed to be an examination caused by the commissioner.

21 (2) No provision of this subdivision shall be deemed to require
22 that the commissioner cause an examination to be made onsite at
23 the offices of a bank.

24 (3) The commissioner shall cause every California state bank,
25 every California state trust company, and the business in this
26 state of every foreign (other nation) bank licensed under Article
27 3 (commencing with Section 1750) of Chapter 13.5 to be
28 examined to the extent and whenever and as often as the
29 commissioner shall deem it advisable, but in no case less than
30 once every two calendar years.

31 (b) The commissioner may at any time examine any of the
32 following:

33 (1) Any office of a bank organized under the laws of this state.

34 (2) Any office of a foreign (other state) bank that maintains an
35 office *or facility* in this state.

36 (3) Any office of a foreign (other nation) bank that maintains
37 an office in this state.

38 (c) The officers and employees of every California state bank,
39 California state trust company, and foreign bank being examined
40 shall exhibit to the examiners, on request, any or all of its

1 securities, books, records, and accounts and shall otherwise
2 facilitate the examination so far as it may be in their power.

3 SEC. 33. Section 1913.5 of the Financial Code is amended to
4 read:

5 1913.5. (a) For the purposes of this section, the following
6 definitions are applicable:

7 (1) ~~“Account holder”~~ *“Accountholder”* includes, in the case of
8 a deposit account, the depositor; in the case of a trust account,
9 each trustor and beneficiary of the trust account; and, in the case
10 of any other fiduciary account, each person who occupies, with
11 respect to the account, a position that is similar to the position
12 that a trustor or beneficiary occupies with respect to a trust
13 account.

14 (2) “Bank” means the following:

15 (A) Any commercial bank, industrial bank, or trust company
16 incorporated under the laws of this state.

17 (B) Any foreign (other state) state bank that maintains a
18 branch office *or facility* in this state, with respect to ~~the branch~~
19 ~~office and any other office in this state.~~

20 ~~(C) Any foreign (other state) state bank that is licensed by the~~
21 ~~commissioner under Article 4 (commencing with Section 3860)~~
22 ~~of Chapter 22 to maintain a facility (as defined in Section 3800)~~
23 ~~in this state, with respect to that office.~~

24 ~~(D)~~

25 (C) Any foreign (other nation) bank that is licensed by the
26 commissioner under Chapter 13.5 (commencing with Section
27 1700) to maintain an office in this state, with respect to ~~that the~~
28 office.

29 ~~(E)~~

30 (D) Any corporation incorporated under the laws of this state
31 that is incorporated for the purpose of engaging in, or that is
32 authorized by the commissioner to engage in, business under
33 Article 1 (commencing with Section 3500) of Chapter 19.

34 ~~(F)~~

35 (E) Any foreign corporation that is licensed by the
36 commissioner under Article 1 (commencing with Section 3500)
37 of Chapter 19 to maintain an office in this state and to transact at
38 that office business under Article 1 (commencing with Section
39 3500) of Chapter 19, with respect to that office.

(3) “Order” means any approval, consent, authorization, permit, exemption, denial, prohibition, or requirement applicable to a specific case issued by the commissioner, including, without limitation, any condition thereof. “Order” does not include any certificate of authority or license issued by the commissioner but does include any condition of a license and any written agreement made by any person with the commissioner under this division.

(4) “Subject person of a bank” means any director, officer, or employee of the bank, or any person who participates in the conduct of the business of the bank. However, “subject person of a bank” does not include a controlling person of the bank that is registered as a bank holding company with the Board of Governors of the Federal Reserve System pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. Sections 1841, et seq.). “Subject person of a bank” does not include an individual who is a director, officer, or employee of a controlling person of the bank unless the individual is a director, officer, or employee of the bank or participates in the conduct of the business of the bank. For purposes of this paragraph, “controlling person” has the meaning set forth in Section 700.

(5) “Violation” includes, without limitation, any act done, alone or with one or more persons, for or toward causing, bringing about, participating in, counseling, aiding, or abetting a violation.

(b) If, after notice and a hearing, the commissioner finds ~~the following~~ *that any subparagraph of paragraph (1), any subparagraph of paragraph (2), and paragraph (3) are true with respect to a subject person of the bank*, the commissioner may issue an order suspending or removing ~~a the subject person of a bank~~ from his or her office with the bank and prohibiting the subject person from further participating in any manner in the conduct of the business of the bank, except with the prior consent of the commissioner:

(1) (A) That the subject person has violated any provision of this division or of any regulation or order issued under this division, or any provision of any other applicable law relating to the business of the bank; ~~or.~~

1 (B) That the subject person has engaged or participated in any
2 unsafe or unsound act with respect to the business of the bank;
3 ~~or.~~

4 (C) That the subject person has committed or engaged in any
5 act that constitutes a breach of his or her fiduciary duty as a
6 subject person;~~and.~~

7 (2) (A) That the bank has suffered or will probably suffer
8 substantial financial loss or other damage by reason of the
9 violation, act, or breach of fiduciary duty;~~or.~~

10 (B) That the interests of the bank's accountholders have been
11 or are likely to be seriously prejudiced by reason of the violation,
12 act, or breach of fiduciary duty;~~or.~~

13 (C) That the subject person has received financial gain by
14 reason of the violation, act, or breach of fiduciary duty;~~and.~~

15 (3) That the violation, act, or breach of fiduciary duty is one
16 involving personal dishonesty on the part of the subject person,
17 or one that demonstrates a willful or continuing disregard for the
18 safety or soundness of the bank.

19 (c) If, after notice and a hearing, the commissioner finds *all of*
20 *the following are true with respect to a subject person of a bank,*
21 *the commissioner may issue an order suspending or removing a*
22 *the subject person of a bank* from his or her office with the bank
23 and prohibiting the subject person from further participating in
24 any manner in the conduct of the business of the bank, except
25 with the prior consent of the commissioner:

26 (1) That the subject person's conduct or practice with respect
27 to another bank or business institution has resulted in substantial
28 financial loss or other damage;~~and.~~

29 (2) That the conduct or practice has evidenced personal
30 dishonesty or willful or continuing disregard for the safety and
31 soundness of the other bank or business institution;~~and.~~

32 (3) That the conduct or practice is relevant in that it
33 demonstrates unfitness to continue as a subject person of the
34 bank.

35 (d) If the commissioner finds ~~the following~~ *that paragraph (1)*
36 *and either subparagraph (A) or (B) of paragraph (2) are true*
37 *with respect to a subject person of a bank,* the commissioner may
38 immediately issue an order suspending or removing ~~a the~~ subject
39 person ~~of a bank~~ from his or her office with the bank and
40 prohibiting the subject person from further participating in any

1 manner in the conduct of the business of the bank, except with
2 the prior consent of the commissioner:

3 (1) That it is necessary for the protection of the bank or the
4 interests of the bank's accountholders that the commissioner
5 issue the order immediately; ~~and~~.

6 (2) (A) That any of the factors set forth in paragraph (1) of
7 subdivision (b), any of the factors set forth in paragraph (2) of
8 subdivision (b), and any of the factors set forth in paragraph (3)
9 of subdivision (b) are true with respect to the subject person; ~~or~~.

10 (B) That any of the factors set forth in paragraph (1) of
11 subdivision (c), any of the factors set forth in paragraph (2) of
12 subdivision (c), and the factor set forth in paragraph (3) of
13 subdivision (c) are true with respect to the subject person.

14 (e) (1) If the commissioner finds *both of* the following *are*
15 *true with respect to a subject person of a bank*, the commissioner
16 may immediately issue an order suspending or removing ~~a the~~
17 subject person ~~of a bank~~ from his or her office with the bank and
18 prohibiting the subject person from further participating in any
19 manner in the conduct of the business of the bank, except with
20 the prior consent of the commissioner:

21 (A) That the subject person has been charged in an indictment
22 issued by a grand jury or in an information, complaint, or similar
23 pleading issued by a United States attorney, district attorney, or
24 other governmental official or agency authorized to prosecute
25 crimes, with a crime that is punishable by imprisonment for a
26 term exceeding one year and that involves dishonesty or breach
27 of trust; ~~and~~.

28 (B) That the person's continuing to serve as a subject person
29 of the bank may pose a material threat to the interests of the
30 bank's accountholders or may threaten to materially impair
31 public confidence in the bank. In case the criminal proceedings
32 are terminated other than by a judgment of conviction, the order
33 shall be deemed rescinded.

34 (2) If the commissioner finds *both of* the following *are true*
35 *with respect to a subject person of a bank*, the commissioner may
36 immediately issue an order suspending or removing ~~a the~~ subject
37 person ~~of a bank~~, or a former subject person of a bank, from his
38 or her office, if any, with the bank and prohibiting the person
39 from further participating in any manner in the conduct of the

1 business of the bank, except with the prior consent of the
2 commissioner:

3 (A) That the person has been finally convicted of a crime that
4 is punishable by imprisonment for a term exceeding one year and
5 that involves dishonesty or breach of trust;~~and.~~

6 (B) That the person's continuing to serve or resumption of
7 service as a subject person of the bank may pose a material threat
8 to the interests of the bank's accountholders or may threaten to
9 materially impair public confidence in the bank.

10 (3) The fact that any subject person of a bank charged with a
11 crime involving dishonesty or breach of trust is not finally
12 convicted of that crime shall not preclude the commissioner from
13 issuing an order regarding the subject person pursuant to other
14 provisions of this division.

15 (f) (1) Within 30 days after an order is issued pursuant to
16 subdivision (d) or (e), the person to whom the order is issued
17 may file with the commissioner an application for a hearing on
18 the order. The commissioner shall, upon the written request of
19 the person, extend the 30-day period by an additional 30 days
20 provided the request is filed with the commissioner within 30
21 days after the order is issued. If the commissioner fails to
22 commence the hearing within 15 business days after the
23 application is filed, or within a longer period to which the person
24 consents, the order shall be deemed rescinded. Within 30 days
25 after the hearing, the commissioner shall affirm, modify, or
26 rescind the order; otherwise, the order shall be deemed rescinded.

27 (2) The right of any person to whom an order is issued under
28 subdivision (d) or (e) to petition for judicial review of the order
29 shall not be affected by the failure of that person to apply to the
30 commissioner for a hearing on the order pursuant to this
31 subdivision.

32 (g) (1) Any person to whom an order is issued under
33 subdivision (b), (c), (d), or (e) may apply to the commissioner to
34 modify or rescind that order. The commissioner shall not grant
35 that application unless the commissioner finds that it is in the
36 public interest to do so and that it is reasonable to believe that the
37 person will, if and when he or she becomes a subject person of a
38 bank, comply with all applicable provisions of this division and
39 of any regulation or order issued thereunder.

1 (2) The right of any person to whom an order is issued under
2 subdivision (b), (c), (d), or (e) to petition for judicial review of
3 that order shall not be affected by the failure of the person to
4 apply to the commissioner pursuant to paragraph (1) to modify or
5 rescind the order.

6 (h) (1) A notice issued under this section shall state the facts
7 constituting the grounds for removal, suspension, or prohibition.

8 (2) A hearing held before the commissioner pursuant to this
9 section shall be private unless the commissioner, in his or her
10 discretion, after fully considering the view of the party afforded
11 the hearing, determines that a public hearing is necessary to
12 protect the public interest.

13 (i) (1) It is unlawful for any subject person of a bank or
14 former subject person of a bank to whom an order is issued under
15 subdivision (b), (c), (d), or (e) to do any of the following, except
16 with the prior consent of the commissioner, so long as the order
17 is effective:

18 (A) To serve or act as a director, officer, employee, or agent of
19 any bank.

20 (B) To vote any shares or other securities of a bank having
21 voting rights, for the election of any person as a director of the
22 bank.

23 (C) Directly or indirectly, to solicit, procure, or transfer or
24 attempt to transfer, or vote any proxy, consent, or authorization
25 with respect to any shares or other securities of any bank having
26 voting rights.

27 (D) Otherwise to participate in any manner in the conduct of
28 the business of any bank.

29 (2) Any person who violates paragraph (1) shall, upon
30 conviction, be punished by a fine of not more than five thousand
31 dollars (\$5,000) or imprisoned in the state prison, or in a county
32 jail not to exceed one year, or by both that fine and
33 imprisonment.

34 (3) If, after notice and a hearing, the commissioner finds that
35 any person has violated paragraph (1), the commissioner may
36 order that person to pay to the commissioner a civil penalty in an
37 amount as the commissioner may specify, ~~provided that~~.
38 *However*, the amount of the civil penalty shall not exceed one
39 thousand dollars (\$1,000) for each violation or, in the case of a

1 continuing violation, one thousand dollars (\$1,000) for each day
2 for which the violation continues.

3 In determining the amount of a civil penalty to be paid to the
4 commissioner under this paragraph, the commissioner shall
5 consider the financial resources and good faith of the person
6 charged, the gravity of the violation, the history of previous
7 violations by the person, and other factors ~~that in the opinion of~~
8 ~~the commissioner may be~~ *the commissioner deems* relevant.

9 SEC. 34. Section 1932 is added to the Financial Code, to read:

10 1932. (a) The definitions contained in Chapter 1
11 (commencing with Section 99) apply to this section.

12 (b) (1) If a California state independent trust company is
13 authorized to and does maintain, as of December 31, 2005, a
14 branch office at which it does not then transact core banking
15 business, the company shall, by January 31, 2006, file with the
16 commissioner a report listing the address of each of those branch
17 offices.

18 (2) The commissioner may object to the listing of any branch
19 office in a report filed pursuant to paragraph (1) if the
20 commissioner finds that the company transacts core banking
21 business at the branch office.

22 (c) Except for any branch office that a California state
23 independent trust company has listed in a report filed with the
24 commissioner pursuant to subdivision (a) and to which the
25 commissioner has not objected pursuant to subdivision (b):

26 (1) Each branch office that a California state independent trust
27 company was authorized to and did maintain, as of December 31,
28 2005, and January 31, 2006, shall, as of February 1, 2006,
29 become a facility.

30 (2) The commissioner shall, as of February 1, 2006, issue to
31 each California state independent trust company that was, as of
32 December 31, 2005, and January 31, 2006, authorized to
33 maintain a branch office, a certificate of authority authorizing the
34 company to maintain a facility at the site of the branch office.
35 Each certificate of authority issued pursuant to this paragraph
36 shall be deemed to be issued pursuant to Section 544.

37 (3) Each California state independent trust company that
38 maintains a branch office that as of February 1, 2006, becomes a
39 facility, shall, promptly after February 1, 2006, surrender to the

1 commissioner for cancellation the certificate of authority for the
2 branch office.

3 SEC. 35. Section 1933 is added to the Financial Code, to read:
4 1933. (a) The definitions contained in Chapter 1
5 (commencing with Section 99) apply to this section. In addition,
6 in this section:

7 (1) "Trust office" means an office that a California state
8 commercial bank authorized to transact trust business is, as of
9 December 31, 2005, authorized to maintain as a branch office
10 and at which it, as of December 31, 2005, transacts trust business
11 but not core banking business.

12 (2) "Subject trust office" means a trust office of a California
13 state commercial bank authorized to transact trust business that
14 meets either of the following requirements:

15 (A) The bank lists the office as a subject trust office in a report
16 filed with the commissioner by January 31, 2006.

17 (B) The commissioner identifies the office as a subject trust
18 office in a notice issued to the bank by January 15, 2006.

19 (b) (1) Each subject trust office that a California state
20 commercial bank authorized to transact trust business is
21 authorized to and does maintain, as of December 31, 2005, and
22 January 31, 2006, shall, as of February 1, 2006, become a
23 facility.

24 (2) The commissioner shall, as of February 1, 2006, issue to
25 each California state commercial bank authorized to transact trust
26 business that is authorized to and does maintain, as of December
27 31, 2005, and January 31, 2006, a subject trust office, a
28 certificate of authority authorizing the bank to maintain a facility
29 at the site of the subject trust office. Each certificate of authority
30 issued pursuant to this paragraph shall be deemed to be issued
31 pursuant to Section 544.

32 (3) Each California state commercial bank authorized to
33 transact trust business that is authorized to and does maintain, as
34 of December 31, 2005, and January 31, 2006, a subject trust
35 office, shall, promptly after February 1, 2006, surrender to the
36 commissioner for cancellation the certificate of authority
37 authorizing it to maintain the subject trust office as a branch
38 office.

39 SEC. 36. Section 3392.5 of the Financial Code is amended to
40 read:

3392.5. No provision of Section 3390, 3391, or 3392 prohibits any of the following from transacting any business or performing any activity if it is authorized by applicable law to transact the business or perform the activity and is not prohibited by any applicable law ~~(other, other~~ than Sections 3390, 3391, and ~~3392)~~ 3392, from transacting the business or performing the activity:

(a) Any California state commercial bank, industrial bank, or trust company.

(b) Any national bank.

(c) Any insured foreign (other state) state bank.

(d) Any foreign (other state) state bank that is licensed by the commissioner under Article 4 (commencing with Section 3860) of Chapter 22 to maintain a facility (as defined in Section 3800) in this state.

(e) Any *uninsured foreign (other state) state bank that is registered with the commissioner under Article 5 (commencing with Section 3880) of Chapter 22.*

(f) Any foreign (other nation) bank that is licensed by the commissioner under Chapter 13.5 (commencing with Section 1700) to maintain an office in this state.

~~(f)~~

(g) Any foreign (other nation) bank that maintains a federal agency (as defined in subdivision ~~(g)~~ (h) of Section 1700) or federal branch (as defined in subdivision ~~(h)~~ (i) of Section 1700) in this state.

~~(g)~~

(h) Any California state corporation that is incorporated for the purpose of engaging in, and that is authorized by the commissioner to engage in, business under Article 1 (commencing with Section 3500) of Chapter 19.

~~(h)~~

(i) Any corporation incorporated under Section 25A of the Federal Reserve Act (12 U.S.C. Sec. 612 et seq.).

~~(i)~~

(j) Any foreign corporation that is licensed by the commissioner under Article 1 (commencing with Section 3500) of Chapter 19 to maintain an office in this state and to transact at that office business under Article 1 (commencing with Section 3500) of Chapter 19.

~~(j)~~

1 (k) Any industrial bank that is organized under the laws of
2 another state of the United States and is insured by the Federal
3 Deposit Insurance Corporation.

4 SEC. 37. Section 3800 of the Financial Code is amended to
5 read:

6 3800. In this chapter, unless the context otherwise requires:

7 (a) *“Accountholder” includes the following:*

8 (1) *In the case of a deposit account, each depositor.*

9 (2) *In the case of a trust account, each trustor and beneficiary*
10 *of the trust account.*

11 (3) *In the case of any other fiduciary account, each person*
12 *who occupies, with respect to the account, a position that is*
13 *similar to the position that a settlor or beneficiary occupies with*
14 *respect to a trust account.*

15 (b) *“Branch business unit” has the meaning set forth in*
16 *subdivision (a) of Section 4840.*

17 ~~(b) “Core banking business” means the business of receiving~~
18 ~~deposits, paying checks, making loans, and other activities that~~
19 ~~the commissioner may specify by order or regulation. “Core~~
20 ~~banking business,” when used to describe the trust business,~~
21 ~~includes receiving fiduciary assets and administering fiduciary~~
22 ~~accounts.~~

23 ~~(c) “Facility,” when used with respect to a foreign (other state)~~
24 ~~bank, means an office in this state at which the bank engages in~~
25 ~~noncore banking business but at which it does not engage in core~~
26 ~~banking business.~~

27 ~~(d) “Noncore banking business” means all activities~~
28 ~~permissible for commercial banks, industrial banks, or trust~~
29 ~~companies, except core banking business, and except those~~
30 ~~activities prohibited by law or determined by the commissioner~~
31 ~~by regulation or order not to be noncore banking business.~~

32 (e)

33 (c) *“Controlling person,” when used with respect to an*
34 *uninsured foreign (other state) state bank, means any person who*
35 *directly or indirectly controls the bank. For purposes of this*
36 *subdivision, “control” has the meaning set forth in subdivision*
37 *(b) of Section 700 and “person” has the meaning set forth in*
38 *subdivision (d) of Section 700.*

39 (d) *“Executive officer,” when used with respect to an*
40 *uninsured foreign (other state) state bank or a controlling person*

1 of an uninsured foreign (other state) state bank, means the chief
2 executive officer, the chief operating officer, the chief financial
3 officer, and any other person who participates or has authority to
4 participate in major policymaking functions of the bank or
5 controlling person.

6 (e) “Partial business unit” has the meaning set forth in
7 subdivision (e) of Section 4840.

8 (f) “Whole business unit” has the meaning set forth in
9 subdivision (g) of Section 4840.

10 SEC. 38. Section 3802 of the Financial Code is amended to
11 read:

12 3802. (a) Each foreign (other state) bank that maintains ~~a~~
13 ~~facility or a California branch office or California facility~~ shall
14 file with the commissioner ~~such~~ any reports as and when the
15 commissioner may by regulation or order require.

16 (b) Each report filed with the commissioner under this chapter
17 or under any regulation or order issued under this chapter shall be
18 in the form, shall contain the information, shall be signed in the
19 manner, and shall (if the commissioner requires by regulation or
20 order) be verified in the manner that the commissioner may by
21 regulation or order require.

22 SEC. 39. Section 3803 of the Financial Code is amended to
23 read:

24 3803. ~~Each foreign (other state) bank that maintains a facility~~
25 ~~(other than a foreign (other state) national bank that maintains a~~
26 ~~California branch office) and each foreign (other state) state bank~~
27 that maintains a California branch office *or California facility*
28 shall make, keep, and preserve at the ~~facility or~~ branch office,
29 *facility*, or at another place that the commissioner may by
30 regulation or order approve, the books, accounts, and other
31 records relating to the business of the office, in the form, in the
32 manner, and for the time that the commissioner may by
33 regulation or order provide.

34 SEC. 40. Section 3804 of the Financial Code is amended to
35 read:

36 3804. Fees shall be paid to and collected by the commissioner
37 as follows:

38 (a) The fee for filing with the commissioner an application by
39 an uninsured foreign (other state) *state* bank for approval to
40 establish a *California* facility is two hundred fifty dollars (\$250).

(b) The fee for filing with the commissioner an application by an uninsured foreign (other state) *state* bank that is licensed pursuant to Article 4 (commencing with Section 3860) to maintain a *California* facility for approval to relocate or to close the facility is one hundred dollars (\$100).

(c) The fee for issuing a license pursuant to Article 4 (commencing with Section 3860) is twenty-five dollars (\$25).

(d) *The fee for filing with the commissioner an application by an uninsured foreign (other state) state bank for approval to become registered pursuant to Article 5 (commencing with Section 3880) is one hundred dollars (\$100).*

(e) Each foreign (other state) state bank that on June 1 of any year maintains one or more California branch offices shall pay, on or before the following July 1, a fee of one thousand dollars (\$1,000) per California branch office. However, the minimum fee paid by a foreign (other state) state bank under this subdivision shall be not less than three thousand dollars (\$3,000) and the maximum fee shall be not more than fifty thousand dollars (\$50,000).

~~(e)~~

(f) Each *insured* foreign (other state) *state* bank that on June 1 of any year maintains ~~a facility~~ *one or more California facilities* but no California branch office shall pay, on or before the following July 1, a fee of two hundred fifty dollars (\$250) for each facility.

~~-(f)~~

(g) *Each uninsured foreign (other state) state bank that on June 1 of any year is licensed under Article 4 (commencing with Section 3860) to maintain one or more California facilities shall pay, on or before the following July 1, a fee of one thousand dollars (\$1,000) for each facility.*

(h) *Each uninsured foreign (other state) state bank that on June 1 of any year is registered under Article 5 (commencing with Section 3880) shall pay, on or before the following July 1, a fee of one thousand dollars (\$1,000).*

(i) If the commissioner makes an examination in connection with a pending application, as described in subdivision (a)~~-or~~, (b), or (d), the applicant shall pay a fee for the examination of seventy-five dollars (\$75) per hour for each examiner engaged in the examination plus, if in the opinion of the commissioner it is

1 necessary for any examiner engaged in the examination to travel
2 outside this state, the travel expenses of the examiner.

3 ~~(g)~~

4 (j) If the commissioner makes an examination of a foreign
5 (other state) state bank that maintains a California branch office
6 *or California facility*, the bank shall pay a fee for the
7 examination of seventy-five dollars (\$75) per hour for each
8 examiner engaged in the examination plus, if in the opinion of
9 the commissioner it is necessary for any examiner engaged in the
10 examination to travel outside this state, the travel expenses of the
11 examiner.

12 ~~(h) If the commissioner makes an examination of a facility of~~
13 ~~an uninsured foreign (other state) bank licensed under Article 4~~
14 ~~(commencing with Section 3860), the bank shall pay a fee for the~~
15 ~~examination of seventy-five dollars (\$75) per hour for each~~
16 ~~examiner engaged in the examination plus, if in the opinion of~~
17 ~~the commissioner it is necessary for any examiner engaged in the~~
18 ~~examination to travel outside this state, the travel expenses of the~~
19 ~~examiner.~~

20 ~~(i) If the commissioner makes an examination of a facility of~~
21 ~~an insured foreign (other state) bank that does not maintain a~~
22 ~~California branch office, the bank shall pay a fee for the~~
23 ~~examination of seventy-five dollars (\$75) per hour for each~~
24 ~~examiner engaged in the examination plus, if in the opinion of~~
25 ~~the commissioner it is necessary for any examiner engaged in the~~
26 ~~examination to travel outside this state, the travel expenses of the~~
27 ~~examiner.~~

28 SEC. 41. Section 3807 is added to the Financial Code, to read:

29 3807. (a) If a foreign (other state) state bank that is
30 authorized pursuant to the law of its domicile to transact trust
31 business and that maintains a California branch office or
32 California facility, transacts trust business at the branch office or
33 facility, in addition to other provisions of this division that are
34 otherwise applicable to the bank, the following provisions of
35 Chapter 12 (commencing with Section 1500) apply to the bank
36 with respect to its business in this state as if the bank were a
37 California state bank authorized to transact trust business:

38 (1) Article 3 (commencing with Section 1540) of Chapter 12.
39 For purposes of Article 3 (commencing with Section 1540) of
40 Chapter 12, the bank's principal place of business is deemed to

1 be situated in the city in which its California branch office or
2 California facility is located or, if it maintains California offices
3 or facilities in two or more cities, in the city with the largest
4 population.

5 (2) Article 4 (commencing with Section 1560) of Chapter 12,
6 except Section 1560.

7 (3) Article 5 (commencing with Section 1580) of Chapter 12,
8 except Sections 1583, 1584, and 1588.

9 (b) If a foreign (other state) state bank that is authorized
10 pursuant to the law of its domicile to transact trust business, that
11 maintains one or more California branch offices or California
12 facilities, and that has transacted trust business at the California
13 branch offices or California facilities, ceases to transact trust
14 business at the California branch offices or California facilities or
15 ceases to maintain any California branch office or facility, the
16 bank shall continue to be subject to Article 3 (commencing with
17 Section 1540) of Chapter 12 for the period of time and to the
18 extent that the commissioner may determine to be necessary for
19 the protection of the interests of the accountholders of the bank's
20 trust business in this state or for the protection of the public
21 interest.

22 SEC. 42. Section 3808 is added to the Financial Code, to read:

23 3808. Subject to the provisions of Section 3809, if a foreign
24 (other state) state bank that maintains a California branch office
25 or California facility is authorized pursuant to the law of its
26 domicile to transact trust business, the bank may engage in and
27 conduct trust business at the branch office or facility and may be
28 appointed by any court to act in any fiduciary capacity in which a
29 California state trust company is authorized to act.

30 SEC. 43. Section 3809 is added to the Financial Code, to read:

31 3809. No foreign (other state) state bank that maintains a
32 California branch office or California facility may transact at the
33 branch office or facility any of the following types of business:

34 (a) Any business that it is not authorized to transact or is
35 prohibited from transacting under the law of its domicile.

36 (b) (1) If the bank is a commercial bank, any business that
37 California state commercial banks are not authorized to transact
38 or are prohibited from transacting.

1 (2) If the bank is an independent trust company, any business
2 that California state independent trust companies are not
3 authorized to transact or are prohibited from transacting.

4 SEC. 44. Section 3810 is added to the Financial Code, to read:

5 3810. Whenever any provision of this chapter or of any
6 regulation or order issued under this chapter that is applicable to
7 or with respect to a foreign (other state) state bank that maintains
8 a California branch office or California facility is inconsistent
9 with any provision of any other chapter of this division, the
10 former provision applies, and the latter provision does not apply.

11 SEC. 45. Section 3811 is added to the Financial Code, to read:

12 3811. (a) For purposes of this section, “act” includes, without
13 limitation, omission.

14 (b) For purposes of making findings on an application by an
15 uninsured foreign (other state) state bank for approval to
16 establish a California facility or for approval to become
17 registered under Article 5 (commencing with Section 3880):

18 (1) The commissioner may, in the absence of credible
19 evidence to the contrary, presume that the directors, executive
20 officers, and any controlling person of the bank, the directors and
21 executive officers of any controlling person of the bank, and the
22 members of the proposed management of the facility are each of
23 good character and sound financial standing.

24 (2) The commissioner may find that the bank, a director,
25 executive officer, or controlling person of the bank, a director or
26 executive officer of a controlling person of the bank, or any
27 member of the proposed management of the facility is not of
28 good character if the person has done any of the following:

29 (A) Has been convicted of, or has pleaded nolo contendere to,
30 any crime involving an act of fraud or dishonesty.

31 (B) Has consented to or suffered a judgment in any civil action
32 based upon conduct involving an act of fraud or dishonesty.

33 (C) Has consented to or suffered the suspension or revocation
34 of any professional, occupational, or vocational license based
35 upon conduct involving an act of fraud or dishonesty.

36 (D) Has willfully made or caused to be made in any
37 application or report filed with the commissioner or in any
38 proceeding before the commissioner any statement that was at
39 the time and in the light of the circumstances under which it was
40 made false or misleading with respect to any material fact, or has

1 willfully omitted to state in any application or report filed with
2 the commissioner any material fact that was required to be stated
3 in the application or report.

4 (E) Has willfully committed any violation of, or has willfully
5 aided, abetted, counseled, commanded, induced, or procured the
6 violation by any other person of, any provision of this division or
7 of any regulation or order issued under this division.

8 (c) Paragraph (2) of subdivision (b) is not an exclusive list of
9 the grounds upon which the commissioner may find, for purposes
10 of making findings on an application by an uninsured foreign
11 (other state) state bank for approval to establish a California
12 facility or for approval to become registered under Article 5
13 (commencing with Section 3880), that the bank, a director,
14 executive officer, or controlling person of the bank, a director or
15 executive officer of a controlling person of the bank, or any
16 member of the proposed management of the facility is not of
17 good character.

18 SEC. 46. Section 3821.5 is added to the Financial Code, to
19 read:

20 3821.5. Nothing in this article prohibits a foreign (other state)
21 state bank that does not already maintain a California branch
22 office from doing any of the following if it does not thereby
23 establish a California branch office:

24 (a) Merging as the surviving corporation with a California
25 independent trust company.

26 (b) Purchasing the whole business unit or a partial business
27 unit of a California independent trust company.

28 (c) Purchasing a partial business unit of a California
29 commercial bank if the partial business unit includes no deposits.

30 SEC. 47. Section 3827 of the Financial Code is amended to
31 read:

32 3827. ~~(a) In case~~ *If* a foreign (other state) state bank that
33 maintains a California branch office is a commercial bank, in
34 addition to other provisions of this division that are otherwise
35 applicable to the bank, the following provisions of this division
36 apply to the bank with respect to its business in this state as if the
37 bank were a California state commercial bank:

38 ~~(1)~~

39 ~~(a)~~ Sections 764, 765, 775, 777.5, and 779.

40 ~~(2)~~

1 (b) Chapter 7 (commencing with Section 850).

2 ~~(3)~~

3 (c) Chapter 8 (commencing with Section 952).

4 ~~(4)~~

5 (d) Sections 1227.2, 1227.3, 1338, 1380, 1381, and 1382.

6 ~~(5)~~

7 (e) Chapter 13 (commencing with Section 1650).

8 ~~(6)~~

9 (f) Article 1 (commencing with Section 3350) of Chapter 18.

10 ~~(7)~~

11 (g) Chapter 20 (commencing with Section 3600).

12 ~~(b) In case a foreign (other state) state bank that maintains a~~
13 ~~California branch office is an industrial bank, in addition to other~~
14 ~~provisions of this division that are otherwise applicable to the~~
15 ~~bank, the provisions cited in paragraphs (1) to (7), inclusive, of~~
16 ~~subdivision (a) and the provisions of Chapter 11 (commencing~~
17 ~~with Section 1400) apply to the industrial bank with respect to its~~
18 ~~business in this state as if the bank were a California state~~
19 ~~industrial bank.~~

20 ~~(c) In case a foreign (other state) state bank that maintains a~~
21 ~~California branch office is authorized pursuant to the law of its~~
22 ~~domicile to transact trust business, in addition to other provisions~~
23 ~~of this division that are otherwise applicable to the bank, the~~
24 ~~following provisions of Chapter 12 (commencing with Section~~
25 ~~1500) apply to the bank with respect to its business in this state~~
26 ~~as if the bank were a California state bank authorized to transact~~
27 ~~trust business:~~

28 ~~(1) Article 3 (commencing with Section 1540). For purposes~~
29 ~~of Article 3 (commencing with Section 1540), the bank's~~
30 ~~principal place of business is deemed to be situated in the city in~~
31 ~~which its California branch office is located or, if it maintains~~
32 ~~California branch offices in two or more cities, in the city with~~
33 ~~the largest population.~~

34 ~~(2) Article 4 (commencing with Section 1560), except Section~~
35 ~~1560.~~

36 ~~(3) Article 5 (commencing with Section 1580), except~~
37 ~~Sections 1583, 1584, 1585, 1588, and 1590.~~

38 ~~(d) Subject to the provisions of subdivision (d), in case a~~
39 ~~foreign (other state) state bank that maintains a California branch~~
40 ~~office is authorized pursuant to the law of its domicile to transact~~

1 ~~trust business, the bank may engage in and conduct trust business~~
2 ~~in this state and may be appointed by any court to act in any~~
3 ~~fiduciary capacity in which a California state trust company is~~
4 ~~authorized to act.~~

5 ~~(e) No foreign (other state) state bank that maintains a~~
6 ~~California branch office may transact at the branch office any~~
7 ~~business that it is not authorized to transact or is prohibited from~~
8 ~~transacting under the law of its domicile or that banks organized~~
9 ~~under the laws of this state are not authorized to transact or are~~
10 ~~prohibited from transacting.~~

11 ~~(f) Whenever any provision of this chapter or of any regulation~~
12 ~~or order issued under this chapter that is applicable to or with~~
13 ~~respect to a foreign (other state) state bank that maintains a~~
14 ~~California branch office is inconsistent with any provision of any~~
15 ~~other chapter of this division, the former provision applies, and~~
16 ~~the latter provision does not apply.~~

17 SEC. 48. The heading of Article 3 (commencing with Section
18 3840) of Chapter 22 of Division 1 of the Financial Code is
19 amended to read:

20
21 Article 3. *California Facilities of Insured Foreign (Other*
22 *State) State Banks*
23

24 SEC. 49. Section 3840 of the Financial Code is amended to
25 read:

26 3840. No provision of this article applies to an insured foreign
27 (other state) *state* bank that maintains a California branch office.

28 SEC. 50. Section 3841 of the Financial Code is amended to
29 read:

30 3841. (a) No insured foreign (other state) *state* bank may
31 establish or maintain an office in this state at which it engages in
32 noncore banking business unless the bank complies with this
33 article and applicable provisions of Article 1 (commencing with
34 Section 3800).

35 (b) (1) No person may establish or maintain an office in this
36 state as representative of an insured foreign (other state) *state*
37 bank unless the bank complies with this article and applicable
38 provisions of Article 1 (commencing with Section 3800).

39 (2) For purposes of this article, if any person establishes or
40 maintains an office in this state as representative of an insured

1 foreign (other state) *state* bank, the insured foreign (other state)
2 *state* bank is deemed to establish and maintain the office as a
3 facility.

4 SEC. 51. Section 3842 of the Financial Code is amended to
5 read:

6 3842. Not less than 30 days before an insured foreign (other
7 state) *state* bank establishes a *California* facility, it shall file with
8 the commissioner a report and the appointment called for in
9 Section 3843.

10 SEC. 52. Section 3843 of the Financial Code is amended to
11 read:

12 3843. (a) Not less than 30 days before establishing a
13 *California* facility, an insured foreign (other state) *state* bank
14 shall file with the commissioner, in the form that the
15 commissioner may by regulation or order require, an
16 appointment irrevocably appointing the commissioner and the
17 commissioner's successor from time to time in office to be the
18 bank's attorney to receive service of any lawful process in any
19 noncriminal judicial or administrative proceeding against the
20 bank or any of its successors that arises out of *or is related to* the
21 activities in this state of the facility after the appointment has
22 been filed, with the same force and validity as if served
23 personally on the bank or its successors, as the case may be.

24 (b) Any insured foreign (other state) *state* bank that maintains
25 a *California* facility and that has not filed with the commissioner
26 an appointment pursuant to subdivision (a) is deemed by the
27 maintenance of the facility to have appointed the commissioner
28 as its attorney to receive service of any lawful process in any
29 noncriminal judicial or administrative proceeding against the
30 bank or any of its successors that arises out of *or is related to* the
31 activities in this state of the facility, with the same force and
32 validity as if served personally on the bank or its successor, as
33 the case may be.

34 (c) Service may be made on an uninsured foreign (other state)
35 *state* bank that has appointed or is deemed to have appointed the
36 commissioner as its attorney for service of process by leaving a
37 copy of the process at any office of the commissioner. However,
38 the service is not effective unless (1) the party making the
39 service, who may be the commissioner, forthwith sends notice of
40 the service and a copy of the process by registered or certified

1 mail to the bank served at the last address on file with the
2 commissioner for any of the bank's offices in this state or at its
3 head office, and (2) an affidavit of compliance with this
4 subdivision by the party making the service is filed in the case on
5 or before the return date, if any, or within any further time that
6 the court, in the case of a judicial proceeding, or the
7 administrative agency, in the case of an administrative
8 proceeding, allows.

9 SEC. 53. Section 3844 of the Financial Code is amended to
10 read:

11 3844. Not less than 30 days before an insured foreign (other
12 state) *state* bank relocates a *California* facility, it shall file a
13 report with the commissioner.

14 SEC. 54. Section 3845 of the Financial Code is amended to
15 read:

16 3845. Not less than 30 days before an insured foreign (other
17 state) *state* bank closes a *California* facility, it shall file a report
18 with the commissioner.

19 SEC. 55. The heading of Article 4 (commencing with Section
20 3860) of Chapter 22 of Division 1 of the Financial Code is
21 amended to read:

22
23 Article 4. *California* Facilities of Uninsured Foreign (Other
24 State) *State* Banks
25

26 SEC. 56. Section 3860 of the Financial Code is amended to
27 read:

28 3860. In this article, unless the context otherwise requires:

29 (a) ~~“Controlling person,” when used with respect to an~~
30 ~~uninsured foreign (other state) bank, means any person who~~
31 ~~directly or indirectly controls the bank. For purposes of this~~
32 ~~subdivision, “control” has the meaning set forth in subdivision~~
33 ~~(b) of Section 700, and “person” has the meaning set forth in~~
34 ~~subdivision (d) of Section 700.~~

35 (b) ~~“Executive officer,” when used with respect to an~~
36 ~~uninsured foreign (other state) bank or a controlling person of an~~
37 ~~uninsured foreign (other state) bank, means the chief executive~~
38 ~~officer, the chief operating officer, the chief financial officer, and~~
39 ~~any other person who participates or has authority to participate~~

1 ~~in major policymaking functions of the bank or controlling~~
2 ~~person.~~

3 ~~(e) (1)~~ “License” means a license issued under this article,
4 authorizing an uninsured foreign (other state) *state* bank to
5 maintain a *California* facility.

6 ~~(2)~~

7 ~~(b)~~ “Licensed” means to be issued or to hold a license.

8 SEC. 57. Section 3861 of the Financial Code is repealed.

9 ~~3861. (a) In this section, “act” includes (without limitation)~~
10 ~~omission.~~

11 ~~(b) For purposes of making findings on an application by an~~
12 ~~uninsured foreign (other state) bank for approval to establish a~~
13 ~~facility:~~

14 ~~(1) The commissioner may, in the absence of credible~~
15 ~~evidence to the contrary, presume that the directors, executive~~
16 ~~officers, and any controlling person of the bank, the directors and~~
17 ~~executive officers of any controlling person of the bank, and the~~
18 ~~members of the proposed management of the facility are each of~~
19 ~~good character and sound financial standing.~~

20 ~~(2) The commissioner may find that the bank, a director,~~
21 ~~executive officer, or controlling person of the bank, a director or~~
22 ~~executive officer of a controlling person of the bank, or any~~
23 ~~member of the proposed management of the facility is not of~~
24 ~~good character if the person has done any of the following:~~

25 ~~(A) Has been convicted of, or has pleaded nolo contendere to,~~
26 ~~any crime involving an act of fraud or dishonesty.~~

27 ~~(B) Has consented to or suffered a judgment in any civil action~~
28 ~~based upon conduct involving an act of fraud or dishonesty.~~

29 ~~(C) Has consented to or suffered the suspension or revocation~~
30 ~~of any professional, occupational, or vocational license based~~
31 ~~upon conduct involving an act of fraud or dishonesty.~~

32 ~~(D) Has willfully made or caused to be made in any~~
33 ~~application or report filed with the commissioner or in any~~
34 ~~proceeding before the commissioner any statement that was at~~
35 ~~the time and in the light of the circumstances under which it was~~
36 ~~made false or misleading with respect to any material fact, or has~~
37 ~~willfully omitted to state in any such application or report any~~
38 ~~material fact that was required to be stated in the application or~~
39 ~~report.~~

1 ~~(E) Has willfully committed any violation of, or has willfully~~
2 ~~aided, abetted, counseled, commanded, induced, or procured the~~
3 ~~violation by any other person of, any provision of this division or~~
4 ~~of any regulation or order issued under this division.~~

5 ~~(e) Paragraph (2) of subdivision (b) is not an exclusive list of~~
6 ~~the grounds upon which the commissioner may find, for purposes~~
7 ~~of making findings on an application by an uninsured foreign~~
8 ~~(other state) bank for approval to establish a facility, that the~~
9 ~~bank, a director, executive officer, or controlling person of the~~
10 ~~bank, a director or executive officer of a controlling person of the~~
11 ~~bank, or any member of the proposed management of the facility~~
12 ~~is not of good character.~~

13 SEC. 58. Section 3862 of the Financial Code is amended to
14 read:

15 3862. (a) No uninsured foreign (other state) *state* bank may
16 establish or maintain an office in this state at which it engages in
17 noncore banking business unless the uninsured foreign (other
18 state) *state* bank is licensed to maintain the office as a facility.

19 (b) (1) No person may establish or maintain an office in this
20 state as representative of an uninsured foreign (other state) *state*
21 bank unless the uninsured foreign (other state) *state* bank is
22 licensed to maintain the office as a facility.

23 (2) For purposes of this article, if any person establishes or
24 maintains an office in this state as representative of an uninsured
25 foreign (other state) *state* bank, the uninsured foreign (other
26 state) *state* bank is deemed to establish and maintain the office as
27 a facility.

28 SEC. 59. Section 3863 of the Financial Code is amended to
29 read:

30 3863. (a) No uninsured foreign (other state) *state* bank may
31 establish or maintain a *California* facility unless the
32 commissioner has first approved the establishment of the office
33 and issued a license authorizing the bank to maintain the office.

34 (b) If the commissioner finds all the following with respect to
35 an application by an uninsured foreign (other state) *state* bank for
36 approval to establish a *California* facility, the commissioner shall
37 approve the application:

38 (1) The bank, any controlling person of the bank, the directors
39 and executive officers of the bank or of any controlling person of

1 the bank, and the proposed management of the office are each of
2 good character and sound financial standing.

3 (2) The financial history and condition of the bank are
4 satisfactory.

5 (3) The management of the bank and the proposed
6 management of the office are adequate.

7 (4) It is reasonable to believe that, if licensed to maintain the
8 office, the bank will operate the office in compliance with all
9 applicable laws, regulations, and orders.

10 (5) The bank's establishment and maintenance of the office
11 will promote the public convenience and advantage.

12 (6) The activities in which the bank proposes to engage at the
13 office are noncore banking business and do not constitute core
14 banking business.

15 If the commissioner finds otherwise, the commissioner shall
16 deny the application.

17 (c) Whenever an application by an uninsured foreign (other
18 state) *state* bank for approval to establish a *California* facility has
19 been approved and all conditions precedent to the issuance of a
20 license authorizing the bank to maintain the office have been
21 fulfilled, the commissioner shall issue the license.

22 SEC. 60. Section 3864 of the Financial Code is amended to
23 read:

24 3864. (a) No uninsured foreign (other state) *state* bank that is
25 licensed to maintain a *California* facility may relocate the office
26 unless the commissioner has first approved the relocation and
27 issued a license authorizing the bank to maintain the office at the
28 new site.

29 (b) If the commissioner finds the following with respect to an
30 application by an uninsured foreign (other state) *state* bank for
31 approval to relocate a *California* facility, the commissioner shall
32 approve the application:

33 (1) In case the new site of the office is in the same vicinity as
34 the old site, that the relocation of the office will not be
35 substantially detrimental to the public convenience.

36 (2) In case the new site of the office is not in the same vicinity
37 as the old site, both of the following:

38 (A) The relocation of the office from the old site will not be
39 substantially detrimental to the public convenience and

1 advantage in the area that is primarily served by the office at the
2 old site.

3 (B) The relocation of the office to the new site will promote
4 the public convenience and advantage.

5 If the commissioner finds otherwise, the commissioner shall
6 deny the application.

7 (c) Whenever an application by an uninsured foreign (other
8 state) *state* bank for approval to relocate a *California* facility has
9 been approved and all conditions precedent to the issuance of a
10 license authorizing the bank to maintain the office at the new site
11 have been fulfilled, the commissioner shall issue the license.

12 (d) Promptly after an uninsured foreign (other state) *state* bank
13 that is licensed to maintain a *California* facility relocates the
14 office, the bank shall surrender to the commissioner the license
15 that authorized it to maintain the office at the old site.

16 SEC. 61. Section 3865 of the Financial Code is amended to
17 read:

18 3865. An uninsured foreign (other state) *state* bank that is
19 licensed to maintain a *California* facility may, subject to any
20 regulations that the commissioner may prescribe, engage in any
21 noncore banking business at the office but may not solicit
22 deposits, receive deposits, pay checks, make loans, or otherwise
23 conduct core banking business at the office.

24 SEC. 62. Section 3866 of the Financial Code is amended to
25 read:

26 3866. (a) (1) No uninsured foreign (other state) *state* bank
27 that is licensed to maintain a *California* facility may close the
28 office unless the commissioner has first approved the closing.

29 (2) Paragraph (1) does not prohibit an uninsured foreign (other
30 state) *state* bank that is licensed to maintain a *California* facility
31 from closing the office in accordance with Section 3867.

32 (b) If the commissioner finds, with respect to an application by
33 an uninsured foreign (other state) *state* bank for approval to close
34 a *California* facility, that the closing of the office will not be
35 substantially detrimental to the public convenience and
36 advantage, the commissioner shall approve the application. If the
37 commissioner finds otherwise, the commissioner shall deny the
38 application.

39 (c) Whenever an application by an uninsured foreign (other
40 state) *state* bank for approval to close a *California* facility has

1 been approved and all conditions precedent to the closing have
2 been fulfilled, the bank may close the office and shall promptly
3 thereafter surrender to the commissioner the license that
4 authorized it to maintain the office.

5 SEC. 63. Section 3867 of the Financial Code is amended to
6 read:

7 3867. (a) Any uninsured foreign (other state) *state* bank that
8 holds a license to maintain a *California* facility may voluntarily
9 surrender the license by filing the license and a report with the
10 commissioner. However, any uninsured foreign (other state) *state*
11 bank that holds licenses to maintain two or more *California*
12 facilities may not voluntarily surrender fewer than all of the
13 licenses.

14 (b) (1) Except as provided in paragraph (2), a voluntary
15 surrender of a license is effective on the 30th day after the license
16 and the report called for in subdivision (a) are filed with the
17 commissioner, or on any earlier date that the commissioner may
18 by order specify.

19 (2) If a proceeding to revoke or suspend a license is pending
20 when the license and the report called for in subdivision (a) are
21 filed with the commissioner, or if a proceeding to revoke or
22 suspend a license or to impose conditions upon the surrender of a
23 license is instituted before the 30th day after the license and the
24 report called for in subdivision (a) are filed with the
25 commissioner, the voluntary surrender of the license is effective
26 at the time and upon the conditions that the commissioner may
27 by order specify.

28 SEC. 64. Section 3868 of the Financial Code is amended to
29 read:

30 3868. (a) (1) No uninsured foreign (other state) *state* bank
31 may be issued a license to maintain a *California* facility unless it
32 has first filed with the commissioner, in the form that the
33 commissioner may by regulation or order require, an
34 appointment irrevocably appointing the commissioner and the
35 commissioner's successor from time to time in office as the
36 bank's attorney to receive service of process in any noncriminal
37 judicial or administrative proceeding against the bank or any of
38 its successors that arises out of *or is related to* the activities in
39 this state of the facility after the appointment has been filed, with

1 the same force and validity as if served personally on the bank or
2 its successors, as the case may be.

3 (2) Any uninsured foreign (other state) *state* bank that
4 maintains a *California* facility and that has not filed with the
5 commissioner an appointment pursuant to paragraph (1) is
6 deemed by the maintenance of the facility to have appointed the
7 commissioner and the commissioner's successor from time to
8 time in office as its attorney to receive service of any lawful
9 process in a noncriminal judicial or administrative proceeding
10 against the bank or any of its successors that arises out of *or is*
11 *related to* the activities in this state of the facility with the same
12 force and validity as if served personally on the bank or its
13 successors, as the case may be.

14 (b) Service may be made on an uninsured foreign (other state)
15 *state* bank that has appointed or is deemed to have appointed the
16 commissioner as its attorney for service of process by leaving a
17 copy of the process at an office of the commissioner. However,
18 the service is not effective unless (1) the party making the
19 service, who may be the commissioner, forthwith sends notice of
20 the service and a copy of the process by registered or certified
21 mail to the bank served at the last address on file with the
22 commissioner for any of its offices in this state or at its head
23 office, and (2) an affidavit of compliance with this subdivision by
24 the party making the service is filed in the case on or before the
25 return date, if any, or within any further time that the court, in the
26 case of a judicial proceeding, or the administrative agency, in the
27 case of an administrative proceeding, allows.

28 SEC. 65. Section 3869 of the Financial Code is amended to
29 read:

30 3869. Each uninsured foreign (other state) *state* bank that is
31 licensed to maintain a *California* facility shall assign to the office
32 a popular name that includes the term "facility" and that consists
33 of a specific designation by name or number. The bank shall post
34 the popular name and the name of the bank in a conspicuous
35 place at the office.

36 SEC. 66. Section 3870 of the Financial Code is amended to
37 read:

38 3870. Each uninsured foreign (other state) *state* bank that is
39 licensed to maintain a *California* facility shall post its license in
40 a conspicuous place at the office.

1 SEC. 67. Section 3872 is added to the Financial Code, to read:

2 3872. Each uninsured foreign (other state) state bank that is
3 licensed to maintain a California facility shall conduct all of the
4 business of the office in a single building or in adjoining
5 buildings. However, for good cause and with the approval of the
6 commissioner, the bank may conduct part of the business of the
7 office elsewhere in the same vicinity.

8 SEC. 68. Section 3873 is added to the Financial Code, to read:

9 3873. If, after notice and a hearing, the commissioner finds
10 any of the following with respect to an uninsured foreign (other
11 state) state bank that is licensed to maintain a California facility,
12 the commissioner may issue an order suspending or revoking the
13 license of the bank:

14 (a) The bank has violated any provision of this division or of
15 any regulation or order issued under this division or any
16 provision of any other applicable law, regulation, or order.

17 (b) The bank is transacting business in this state or elsewhere
18 in an unsafe or unsound manner.

19 (c) The bank is in unsafe or unsound condition.

20 (d) The bank has ceased to operate its California facility.

21 (e) The bank is insolvent in that it has ceased to pay its debts
22 in the ordinary course of business, it cannot pay its debts as they
23 become due, or its liabilities exceed its assets.

24 (f) The bank has suspended payment of its obligations, has
25 made an assignment for the benefit of its creditors, or has
26 admitted in writing its inability to pay its debts as they become
27 due.

28 (g) The bank has applied for an adjudication of bankruptcy,
29 reorganization, arrangement, or other relief under any
30 bankruptcy, reorganization, insolvency, or moratorium law, or
31 any person has applied for relief under any law of that type
32 against the bank and the bank has, by any affirmative act,
33 approved of or consented to the action or the relief has been
34 granted.

35 (h) A receiver, liquidator, or conservator has been appointed
36 for the bank or any proceeding for an appointment or any similar
37 proceeding has been initiated in the state in which the bank is
38 domiciled.

1 (i) The existence of the bank or the authority of the bank to
2 transact banking business under the laws of the state in which the
3 bank is domiciled has been suspended or terminated.

4 (j) Any fact or condition exists that, if it had existed at the time
5 the bank applied for approval to establish its California facility,
6 would have been grounds for denying the application.

7 SEC. 69. Section 3874 is added to the Financial Code, to read:

8 3874. (a) If the commissioner finds that any of the factors set
9 forth in Section 3873 is true with respect to any uninsured
10 foreign (other state) state bank that is licensed to maintain a
11 California facility and that it is necessary for the protection of the
12 interests of accountholders or creditors of the bank's business in
13 this state or for the protection of the public interest that the
14 commissioner immediately suspend or revoke the license of the
15 bank, the commissioner may issue an order suspending or
16 revoking the license of the bank.

17 (b) (1) Within 30 days after an order is issued pursuant to
18 subdivision (a), the uninsured foreign (other state) state bank to
19 which the order is issued may file with the commissioner an
20 application for a hearing on the order. If the commissioner fails
21 to commence the hearing within 15 business days after the
22 application is filed with the commissioner, or within any longer
23 period to which the bank consents, the order shall be deemed
24 rescinded. Within 30 days after the hearing, the commissioner
25 shall affirm, modify, or rescind the order; otherwise, the order
26 shall be deemed rescinded.

27 (2) The right of any uninsured foreign (other state) state bank
28 to which an order is issued under subdivision (a) to petition for
29 judicial review of the order shall not be affected by the failure of
30 the bank to apply to the commissioner for a hearing on the order
31 pursuant to paragraph (1).

32 SEC. 70. Section 3875 is added to the Financial Code, to read:

33 3875. Any uninsured foreign (other state) state bank whose
34 license to maintain a California facility is suspended or revoked
35 shall immediately surrender the license to the commissioner.

36 SEC. 71. Section 3876 is added to the Financial Code, to read:

37 3876. (a) Any uninsured foreign (other state) state bank to
38 which an order is issued under Section 3873 or 3874 may apply
39 to the commissioner to modify or rescind the order. The
40 commissioner shall not grant the application unless he or she

1 finds that it is in the public interest to do so and that it is
2 reasonable to believe that the bank will, if and when it is again
3 licensed to maintain a California facility, comply with all
4 applicable provisions of this division and of any regulation or
5 order issued under this division.

6 (b) The right of any uninsured foreign (other state) state bank
7 to which an order is issued under Section 3873 or 3874 to
8 petition for judicial review of the order shall not be affected by
9 the failure of the bank to apply to the commissioner pursuant to
10 subdivision (a) to modify or rescind the order.

11 SEC. 72. Section 3877 is added to the Financial Code, to read:

12 3877. (a) If the commissioner finds that any of the factors set
13 forth in Section 3873 is true with respect to any uninsured
14 foreign (other state) state bank that is licensed to maintain a
15 California facility and that it is necessary for the protection of the
16 interests of the accountholders or creditors of the bank's business
17 in this state or for the protection of the public interest that he or
18 she take immediate possession of the property and business of
19 the bank, the commissioner may by order forthwith take
20 possession of the property and business of the bank and retain
21 possession until the bank resumes business in this state or is
22 finally liquidated. The bank may, with the consent of the
23 commissioner, resume business in this state upon any conditions
24 as the commissioner may prescribe.

25 (b) (1) Whenever the commissioner takes possession of the
26 property and business of an uninsured foreign (other state) state
27 bank pursuant to subdivision (a), the bank may, within 10 days,
28 apply to the superior court in the county in which the bank's
29 California facility is located or, if the bank is licensed to maintain
30 two or more California facilities, the county in which the bank's
31 California facility having the largest amount of total assets is
32 located, to enjoin further proceedings. The court may, after citing
33 the commissioner to show cause why further proceedings should
34 not be enjoined and after a hearing, dismiss the application or
35 enjoin the commissioner from further proceedings and order him
36 or her to surrender the property and business of the bank to the
37 bank or make any further order as may be just.

38 (2) The judgment of the court may be appealed by the
39 commissioner or by the bank in the manner provided by law for
40 appeals from the judgment of a superior court. If the

1 commissioner appeals the judgment of the court, the appeal shall
2 operate as a stay of the judgment and the commissioner shall not
3 be required to post any bond.

4 (c) Whenever the commissioner takes possession of the
5 property and business of an uninsured foreign (other state) state
6 bank pursuant to subdivision (a), the commissioner shall
7 conserve or liquidate the property and business of the bank
8 pursuant to Article 1 (commencing with Section 3100), Article 3
9 (commencing with Section 3160), and Article 6 (commencing
10 with Section 3220), of Chapter 17, and the provisions of those
11 articles (except Sections 3100, 3101, 3102, and 3126) shall apply
12 as if the bank were a California state bank.

13 (d) When the commissioner has completed the liquidation of
14 the property and business of an uninsured foreign (other state)
15 state bank, the commissioner shall transfer any remaining assets
16 to the bank in accordance with any orders as the court may issue.

17 SEC. 73. Article 5 (commencing with Section 3880) is added
18 to Chapter 22 of Division 1 of the Financial Code, to read:

19
20 Article 5. Registration of Uninsured Foreign (Other State)
21 State Banks
22

23 3880. In this article, “registered,” when used with respect to
24 an uninsured foreign (other state) state bank that is authorized
25 under the law of its domicile to transact trust business, means
26 that the bank is registered with the commissioner pursuant to this
27 article.

28 3881. An uninsured foreign (other state) state bank that is
29 authorized under the law of its domicile to transact trust business
30 and that is not licensed pursuant to Article 4 (commencing with
31 Section 3860) to maintain a California facility, may not receive
32 or deliver money or other intangible assets as trustee or in any
33 other fiduciary capacity in this state unless it is registered.

34 3882. (a) If the commissioner finds all the following with
35 respect to an application by an uninsured foreign (other state)
36 state bank for approval to become registered, the commissioner
37 shall approve the application:

38 (1) The bank, any controlling person of the bank, and the
39 directors and executive officers of the bank or of any controlling

1 person of the bank are each of good character and sound financial
2 standing.

3 (2) The financial history and condition of the bank are
4 satisfactory.

5 (3) The management of the bank is adequate.

6 (4) It is reasonable to believe that, if registered, the bank will
7 operate in this state in compliance with all applicable laws,
8 regulations, and orders.

9 If the commissioner finds otherwise, the commissioner shall
10 deny the application.

11 (b) Whenever an application by an uninsured foreign (other
12 state) state bank for approval to become registered has been
13 approved and all conditions precedent to the registration of the
14 bank have been fulfilled, the commissioner shall register the
15 bank.

16 3883. No registration is transferable or assignable.

17 3884. (a) (1) No uninsured foreign (other state) state bank
18 may be registered unless it has first filed with the commissioner,
19 in the form that the commissioner may by regulation or order
20 require, an appointment irrevocably appointing the commissioner
21 and the commissioner's successor from time to time in office as
22 the bank's attorney to receive service of process in any
23 noncriminal judicial or administrative proceeding against the
24 bank or any of its successors that arises out of or is related to the
25 bank's activities in this state after the appointment has been filed,
26 with the same force and validity as if served personally on the
27 bank or its successors, as the case may be.

28 (2) Any uninsured foreign (other state) state bank that is
29 registered or, if not registered, engages in this state in the
30 business of receiving or delivering money or other intangible
31 assets as a trustee or in any other fiduciary capacity in violation
32 of Section 3881 and that has not filed with the commissioner an
33 appointment pursuant to paragraph (1) is deemed by being
34 registered or by engaging in that business to have appointed the
35 commissioner and the commissioner's successor from time to
36 time in office as its attorney to receive service of any lawful
37 process in a noncriminal judicial or administrative proceeding
38 against the bank or any of its successors that arises out of or is
39 related to the bank's activities in this state with the same force

1 and validity as if served personally on the bank or its successors,
2 as the case may be.

3 (b) Service may be made on an uninsured foreign (other state)
4 state bank that has appointed or is deemed to have appointed the
5 commissioner as its attorney for service of process by leaving a
6 copy of the process at an office of the commissioner. However,
7 the service is not effective unless (1) the party making the
8 service, who may be the commissioner, forthwith sends notice of
9 the service and a copy of the process by registered or certified
10 mail to the bank served at its head office, and (2) an affidavit of
11 compliance with this subdivision by the party making the service
12 is filed in the case on or before the return date, if any, or within
13 any further time that the court, in the case of a judicial
14 proceeding, or the administrative agency, in the case of an
15 administrative proceeding, allows.

16 3885. (a) Any uninsured foreign (other state) state bank that
17 is registered may voluntarily cancel its registration by filing a
18 report with the commissioner.

19 (b) (1) Except as provided in paragraph (2), a voluntary
20 cancellation of a registration is effective on the 30th day after the
21 report called for in subdivision (a) is filed with the commissioner
22 or on any earlier date that the commissioner may by order
23 specify.

24 (2) If a proceeding to revoke or suspend a registration is
25 pending when the report called for in subdivision (a) is filed with
26 the commissioner or, if a proceeding to revoke or suspend a
27 registration or to impose conditions upon the cancellation of a
28 registration is instituted before the 30th day after the report called
29 for in subdivision (a) is filed with the commissioner, the
30 voluntary cancellation of the registration is effective at the time
31 and upon the conditions that the commissioner may by order
32 specify.

33 3886. If, after notice and a hearing, the commissioner finds
34 any of the following with respect to an uninsured foreign (other
35 state) state bank that is registered, the commissioner may issue an
36 order suspending or revoking the registration of the bank:

37 (a) The bank has violated any provision of this division or of
38 any regulation or order issued under this division or any
39 provision of any other applicable law, regulation, or order.

1 (b) The bank is transacting business in this state or elsewhere
2 in an unsafe or unsound manner.

3 (c) The bank is in unsafe or unsound condition.

4 (d) The bank has ceased to operate in this state.

5 (e) The bank is insolvent in that it has ceased to pay its debts
6 in the ordinary course of business, it cannot pay its debts as they
7 become due, or its liabilities exceed its assets.

8 (f) The bank has suspended payment of its obligations, has
9 made an assignment for the benefit of its creditors, or has
10 admitted in writing its inability to pay its debts as they become
11 due.

12 (g) The bank has applied for an adjudication of bankruptcy,
13 reorganization, arrangement, or other relief under any
14 bankruptcy, reorganization, insolvency, or moratorium law, or
15 any person has applied for relief under any law of that type
16 against the bank and the bank has by any affirmative act
17 approved of or consented to the action or the relief has been
18 granted.

19 (h) A receiver, liquidator, or conservator has been appointed
20 for the bank or any proceeding for an appointment or any similar
21 proceeding has been initiated in the state in which the bank is
22 domiciled.

23 (i) The existence of the bank or the authority of the bank to
24 transact trust business under the laws of the state in which the
25 bank is domiciled has been suspended or terminated.

26 (j) Any fact or condition exists that, if it had existed at the time
27 the bank applied for approval to become registered, would have
28 been grounds for denying the application.

29 3887. (a) If the commissioner finds that any of the factors set
30 forth in Section 3886 is true with respect to any uninsured
31 foreign (other state) state bank that is registered and that it is
32 necessary for the protection of the interests of accountholders or
33 creditors of the bank's business in this state or for the protection
34 of the public interest that the commissioner immediately suspend
35 or revoke the registration of the bank, the commissioner may
36 issue an order suspending or revoking the registration of the
37 bank.

38 (b) (1) Within 30 days after an order is issued pursuant to
39 subdivision (a), the uninsured foreign (other state) state bank to
40 which the order is issued may file with the commissioner an

1 application for a hearing on the order. If the commissioner fails
2 to commence the hearing within 15 business days after the
3 application is filed with the commissioner or within any longer
4 period to which the bank consents, the order shall be deemed
5 rescinded. Within 30 days after the hearing, the commissioner
6 shall affirm, modify, or rescind the order; otherwise, the order
7 shall be deemed rescinded.

8 (2) The right of any uninsured foreign (other state) state bank
9 to which an order is issued under subdivision (a) to petition for
10 judicial review of the order shall not be affected by the failure of
11 the bank to apply to the commissioner for a hearing on the order
12 pursuant to paragraph (1).

13 3888. (a) Any uninsured foreign (other state) state bank to
14 which an order is issued under Section 3886 or 3887 may apply
15 to the commissioner to modify or rescind the order. The
16 commissioner shall not grant the application unless he or she
17 finds that it is in the public interest to do so and that it is
18 reasonable to believe that the bank will, if and when it is again
19 registered, comply with all applicable provisions of this division
20 and of any regulation or order issued under this division.

21 (b) The right of any uninsured foreign (other state) state bank
22 to which an order is issued under Section 3886 or 3887 to
23 petition for judicial review of the order shall not be affected by
24 the failure of the bank to apply to the commissioner pursuant to
25 subdivision (a) to modify or rescind the order.

26 SEC. 74. Section 4840 of the Financial Code is amended to
27 read:

28 4840. In this chapter, unless the context otherwise requires:

29 (a) “Branch business unit” means all or substantially all of the
30 business of a branch office of a depository corporation.

31 (b) “Business unit” means a branch business unit, a partial
32 business unit, or a whole business unit.

33 (c) ~~“Independent trust company” means a trust company that~~
34 ~~is neither a commercial bank nor a title insurance company.~~

35 (d) ~~“Fiduciary asset,”~~ when used with respect to a depository
36 corporation that transacts trust business, means any asset that the
37 depository corporation holds in its capacity as fiduciary.

38 (e) ~~—~~

39 (d) “Partial business unit” means all or substantially all of any
40 of the following:

1 (1) The business of any office, other than the head office, of a
2 depository corporation.

3 (2) In the case of a depository corporation that transacts trust
4 business:

5 (A) The trust business of the depository corporation, unless the
6 depository corporation transacts only trust business.

7 (B) The trust business of any office of the depository
8 corporation.

9 (C) The business, other than trust business, of the depository
10 corporation.

11 (D) The business, other than trust business, of any office of the
12 depository corporation.

13 In addition, “partial business unit” means any deposit, any
14 fiduciary account, or any portion of the business of a depository
15 corporation that includes a deposit or fiduciary account and that
16 is less than substantially all of the business of the depository
17 corporation.

18 ~~(f)~~—

19 (e) “Partial trust business unit” means:

20 (1) In the case of a California state depository corporation that
21 is an independent trust company:

22 (A) All or substantially all of the business of any office, other
23 than the head office, of the depository corporation.

24 (B) Any partial business unit consisting of one or more
25 fiduciary accounts and no deposits.

26 (2) In the case of a California state depository corporation that
27 is a commercial bank or savings association:

28 (A) All or substantially all of the trust business of the
29 depository corporation.

30 (B) All or substantially all of the trust business of any office,
31 other than the head office, of the depository corporation.

32 (C) Any partial business unit consisting of one or more
33 fiduciary accounts and no deposits.

34 ~~(g)~~—

35 (f) “Purchaser” means a depository corporation that purchases
36 a business unit from another depository corporation pursuant to
37 the provisions of this chapter.

38 ~~(h)~~—

1 (g) “Seller” means a depository corporation that sells a
2 business unit to another depository corporation pursuant to the
3 provisions of this chapter.

4 ~~(i)–~~

5 (h) “Whole business unit” means all or substantially all of the
6 business of a depository corporation.

7 SEC. 75. Section 4858 of the Financial Code is amended to
8 read:

9 4858. When a sale becomes effective:

10 (a) Unless the purchaser provided otherwise in the application
11 for approval of the sale or unless the commissioner provided
12 otherwise in the approval of the application:

13 (1) The purchaser may establish and maintain a branch office
14 at the head office of the seller and establish and maintain
15 equivalent offices at the branch offices, ~~places of business~~
16 *facilities*, extensions of offices, and other ~~facilities~~ *places of*
17 *business*, if any, of the seller.

18 (2) If the seller was authorized to transact and was transacting
19 trust business, the purchaser, if it is a California state bank or
20 savings association, may transact trust business.

21 (b) The commissioner shall issue to the purchaser certificates
22 of authority, licenses, and other authorizations as may be
23 necessary to carry out the provisions of subdivision (a).

24 SEC. 76. Section 4876.06.5 is added to the Financial Code, to
25 read:

26 4876.06.5. When a sale becomes effective, if the purchaser is
27 registered under Article 5 (commencing with Section 3880) of
28 Chapter 22 of Division 1 to maintain a California facility:

29 (a) Unless the seller provided otherwise in the application for
30 approval of the sale or unless the commissioner provided
31 otherwise in the approval of the application, the purchaser may
32 establish and maintain facilities at the head office and at the
33 California branch offices, if any, of the seller and may establish
34 and maintain equivalent offices at the California extensions of
35 offices and other California places of business, if any, of the
36 seller.

37 (b) The commissioner shall issue to the purchaser licenses and
38 other authorizations as may be necessary to carry out the
39 provisions of subdivision (a).

1 SEC. 77. Section 4878.05.5 is added to the Financial Code, to
2 read:

3 4878.05.5. When a sale becomes effective, if the purchaser is
4 licensed under Article 4 (commencing with Section 3860) of
5 Chapter 22 of Division 1 to maintain a California facility:

6 (a) Unless the seller provided otherwise in the application for
7 approval of the sale or unless the commissioner provided
8 otherwise in the approval of the application, the purchaser may
9 establish and maintain facilities at any California branch offices
10 or California facilities of the seller transferred in the sale and
11 may establish and maintain equivalent offices at any California
12 extensions of offices and other California places of business of
13 the seller transferred in the sale.

14 (b) The commissioner shall issue to the purchaser licenses and
15 other authorizations as may be necessary to carry out the
16 provisions of subdivision (a).

17 SEC. 78. Section 4879.13 of the Financial Code is repealed.

18 ~~4879.13. In case a seller is a California state commercial bank
19 and sells all of its trust business in a sale:~~

20 ~~(a) As of the time when the sale becomes effective, the
21 commissioner shall issue to the seller certificates of authority
22 authorizing it to transact commercial banking business in
23 replacement of the certificates of authority that the seller is
24 required to surrender pursuant to subdivision (b).~~

25 ~~(b) Promptly after the sale becomes effective, the seller shall
26 surrender to the commissioner for cancellation its certificates of
27 authority authorizing it to transact commercial banking business
28 and trust business.~~

29 SEC. 79. Section 4879.13 is added to the Financial Code, to
30 read:

31 4879.13. When a sale becomes effective, if the purchaser is a
32 California state depository corporation or California
33 state-licensed foreign (other nation) bank:

34 (a) Unless the purchaser provided otherwise in the application
35 for approval of the sale or unless the commissioner provided
36 otherwise in the approval of the application:

37 (1) The purchaser may establish equivalent offices at any
38 branch offices, facilities, extensions of offices, and other places
39 of business of the seller transferred in the sale.

1 (2) If the seller was authorized to transact trust business and if
2 the partial business unit sold includes any trust business, the
3 purchaser, if it is a California state bank or savings association,
4 may transact trust business.

5 (b) The commissioner shall issue to the purchaser certificates
6 of authority, licenses, and other authorizations as may be
7 necessary to carry out the provisions of subdivision (a).

8 SEC. 80. Section 4888 of the Financial Code is amended to
9 read:

10 4888. When a merger becomes effective:

11 (a) Unless the surviving depository corporation provided
12 otherwise in the application for approval of the merger or unless
13 the commissioner provided otherwise in the approval of the
14 application:

15 (1) The surviving depository corporation may establish and
16 maintain a branch office at the head office of the disappearing
17 depository corporation and may establish and maintain
18 equivalent offices at the branch offices, ~~places of business~~
19 *facilities*, extensions of offices, and other ~~facilities~~ *places of*
20 *business*, if any, of the disappearing corporation.

21 (2) If the disappearing depository corporation was authorized
22 to transact and was transacting trust business, the surviving
23 depository corporation, if it is a California state bank or savings
24 association, may transact trust business.

25 (b) The commissioner shall issue to the surviving depository
26 corporation certificates of authority, licenses, and other
27 authorizations as may be necessary to carry out the provisions of
28 subdivision (a).

29 SEC. 81. Section 4908.07.5 is added to the Financial Code, to
30 read:

31 4908.07.5. When a merger becomes effective, if the surviving
32 depository corporation is licensed under Article 4 (commencing
33 with Section 3860) of Chapter 22 of Division 1 to maintain a
34 California facility:

35 (a) Unless the disappearing or surviving depository
36 corporation provided otherwise in the application for approval of
37 the merger or unless the commissioner provided otherwise in the
38 approval of the application, the surviving depository corporation
39 may establish and maintain facilities at the head office and at the
40 California branch offices and California facilities, if any, of the

1 disappearing depository corporation and may establish equivalent
2 offices at the California extensions of offices and other California
3 places of business, if any, of the disappearing depository
4 corporation.

5 (b) The commissioner shall issue to the surviving depository
6 corporation licenses and other authorizations as may be
7 necessary to carry out the provisions of subdivision (a).

8 SEC. 82. Section 4928 of the Financial Code is amended to
9 read:

10 4928. When a conversion becomes effective, the
11 commissioner shall:

12 (a) (1) In case the resulting depository corporation is a
13 California state bank, issue to the resulting depository
14 corporation a certificate of authority authorizing it to transact
15 commercial banking business or commercial banking business
16 and trust business, as the case may be.

17 (2) In case the resulting depository corporation is a California
18 state savings association, issue to the resulting depository
19 corporation a license authorizing it to transact business as a state
20 savings association.

21 (3) In case the resulting depository corporation is a California
22 industrial loan company, issue to the resulting depository
23 corporation a certificate of authority authorizing it to transact
24 business as an industrial loan company.

25 (b) In any case, issue to the resulting depository corporation
26 certificates of authority, licenses, or other appropriate
27 authorizations for the branch offices, ~~places of business facilities,~~
28 extensions of offices, and other ~~facilities~~ *places of business*, if
29 any, that the converting depository corporation was operating and
30 that the resulting depository corporation is to continue to operate.

31 SEC. 83. Section 4949 of the Financial Code is amended to
32 read:

33 4949. When a conversion becomes effective, the
34 commissioner shall issue to the resulting depository corporation
35 certificates of authority, licenses, or other appropriate
36 authorizations for the branch offices, ~~places of business facilities,~~
37 extensions of offices, and other ~~facilities~~ *places of business*, if
38 any, that the converting depository corporation was operating and
39 that the resulting depository corporation is to continue to operate.

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